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*Attorneys for Plaintiff Software Freedom Conservancy, Inc.*

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF ORANGE — CENTRAL JUSTICE CENTER**

**SOFTWARE FREEDOM CONSERVANCY,  
INC., a New York Non-Profit Corporation,**

**Plaintiff,**

**v.**

**VIZIO, INC., a California Corporation; and  
DOES 1 to 10, Inclusive,**

**Defendants.**

**CASE NO.: 30-2021-01226723-CU-BC-CJC**

*[Hon. Sandy N. Leal / Dept. C33]*

**PLAINTIFF SOFTWARE FREEDOM  
CONSERVANCY, INC.'S UNOPPOSED,  
NON-APPEARANCE EX PARTE  
APPLICATION TO SPECIALLY SET THE  
HEARING DATE ON ITS MOTION FOR  
SUMMARY ADJUDICATION OF ISSUES;  
DECLARATION OF SA'ID VAKILI IN  
SUPPORT THEREOF**

Date: June 11, 2025

Time: 9:30 a.m.

Dept.: C33

Complaint Filed: 10/19/2021

Trial Date: 09/15/2025

1 **TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that on June 11, 2025, at 9:30 a.m., or as soon thereafter as the matter  
3 may be heard, in Department C33 of the above-captioned Court, located at 700 Civic Center Drive,  
4 Santa Ana, California 92701, the Honorable Sandy N. Leal presiding, Plaintiff Software Freedom  
5 Conservancy, Inc. (“SFC” or “Plaintiff”) will and does hereby move for an *ex parte* order from this  
6 Court specially setting the hearing date on Plaintiff’s Motion for Summary Adjudication of Issues  
7 (“MSA”)—presently set to be heard on October 16, 2025—to a date on or around August 14, 2025 so it  
8 will occur at least thirty (30) days prior to the scheduled trial date of September 15, 2025, per California  
9 *Code of Civil Procedure* (“CCP”) § 437c(a)(3).

10 It is necessary that this matter be heard *ex parte* because Plaintiff was unable to obtain a hearing  
11 date via noticed motion prior to September 11, 2025, which is only four days prior to the current Trial  
12 date of September 15, 2025. Moreover, Plaintiff’s MSA was timely filed and served within the 81-day  
13 notice period as required by CCP § 437c(a)(2), and Plaintiff will be irreparably harmed if its MSA is not  
14 heard since SFC was unable to secure a date to have it heard at least 30 days before trial as statutorily  
15 required.

16 Before filing this *Ex Parte* Application (“Application”), Plaintiff’s counsel contacted Michael E.  
17 Williams (“Mr. Williams”), counsel for Defendant VIZIO, Inc. (“VIZIO”), to meet and confer regarding  
18 whether Defendant will agree to have SFC’s MSA heard at least 30 days before the September 15, 2025  
19 trial date and possibly have both SFC’s pending MSA and VIZIO’s pending MSA heard simultaneously.  
20 Mr. Williams indicated that VIZIO would not oppose SFC’s Application to specially set the hearing  
21 date, but that VIZIO wants its pending MSA (scheduled for July 24, 2025) heard before SFC’s MSA.  
22 Both counsel also discussed having SFC’s MSA heard less than 30 days before trial, provided that it  
23 falls within a few days of the 30 days and does not conflict with Mr. Williams’ other court-related  
24 commitments. These discussions were confirmed via email.

25 Plaintiff’s counsel provided counsel for Defendant with notice of this Application by email at  
26 3:44 p.m. on June 9, 2025, in compliance with Rule 3.1203(a) of the California *Rules of Court* (“CRC”).

27 Plaintiff’s Application is properly brought pursuant to the CCP, CRC Rules 3.1200 to 3.1207,  
28 3.1332, and 3.1335, Local Rules of Court 3.5, and this Court’s standing policies and procedures and is  
based upon the following: (1) this application; (2) the attached Memorandum of Points and Authorities;  
(3) the supporting Declaration of Sa’id Vakili; (4) the pleadings, papers, and records on file in this action;

1 (5) all matters upon which the Court may take judicial notice; and (6) any oral or documentary evidence  
2 as may be presented prior to or at the time of the hearing on this application.

3  
4 DATED: June 9, 2025

VAKILI & LEUS, LLP

5  
6 By: 

Sa'id Vakili, Esq.

7 *Attorneys for Plaintiff Software Freedom*  
8 *Conservancy, Inc.*

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION AND SUMMARY OF ARGUMENT**

3 As this Court is aware, this is an action by Plaintiff Software Freedom Conservancy, Inc. (“SFC”  
4 or “Plaintiff”) against defendant VIZIO, Inc. (“VIZIO” or “Defendant”) for breaching its contractual  
5 duties under the GNU General Public License version 2 (the “GPLv2”) and the GNU Lesser General  
6 Public License version 2.1 (the “LGPLv2.1”) (collectively, “the GPLs”) when VIZIO used software  
7 licensed under the GPLs to operate Smart TVs manufactured and sold by VIZIO.

8 Plaintiff timely filed and served its MSA on May 23, 2025. (Declaration of Sa’id Vakili (“Vakili  
9 Decl.”), at ¶ 2.) In preparing its MSA, counsel for Plaintiff secured the earliest available hearing date  
10 for the MSA—*i.e.*, October 16, 2025—which is well after the September 15, 2025 trial date. (*Ibid.*)  
11 Because of this, Plaintiff respectfully requests that this Court specially set the hearing date for Plaintiff’s  
12 pending MSA—currently scheduled for October 16, 2025—to a date on or around August 14, 2025, so  
13 it may be heard at least thirty (30) days prior to the scheduled trial date of September 15, 2025, as  
14 required by California *Code of Civil Procedure* (“CCP”) § 437c(a)(3).

15 Before filing this *Ex Parte* Application (“Application”), Plaintiff’s counsel contacted Michael E.  
16 Williams (“Mr. Williams”), counsel for Defendant VIZIO, Inc. (“VIZIO”), to meet and confer regarding  
17 whether Defendant will agree to have SFC’s MSA heard at least 30 days before the September 15, 2025  
18 trial date and possibly have both SFC’s pending MSA and VIZIO’s pending MSA heard simultaneously.  
19 (Declaration of Sa’id Vakili (“Vakili Decl.”), at ¶ 3.) Mr. Williams indicated that VIZIO would not  
20 oppose SFC’s Application to specially set the hearing date, but that VIZIO wants its pending MSA  
21 (scheduled for July 24, 2025) heard before SFC’s MSA. (*Ibid.*) Both counsel also discussed having  
22 SFC’s MSA heard less than 30 days before trial, provided that it falls within a few days of the 30 days  
23 and does not conflict with Mr. Williams’ other court-related commitments. (Vakili Decl., at ¶ 4.) These  
24 discussions were confirmed via email. (Vakili Decl., at ¶ 4; Exhibit “1”.)

25 It is necessary for this matter to be heard *ex parte* because Plaintiff was unable to secure a hearing  
26 date via noticed motion before September 11, 2025, which is only four days before the current trial date  
27 of September 15, 2025. Moreover, Plaintiff’s MSA was timely filed and served with more than the  
28 required notice of 81 days as mandated by CCP § 437c(a)(2); however, this Court’s calendar could not  
accommodate having the MSA heard 30 days before the September 15, 2025, trial date, so Plaintiff  
reserved the next available date of October 16, 2025. As discussed below, Plaintiff will face irreparable

1 harm if its MSA is not heard solely because it could not be heard at least 30 days before trial as statutorily  
2 required.

3 “A party seeking an ex parte order must notify all parties no later than 10:00 a.m. the court day  
4 before the ex parte appearance, absent a showing of exceptional circumstances that justify a shorter time  
5 for notice.” (Cal. R. Ct. (“CRC”), Rule 3.1203(a).) Plaintiff’s counsel provided Defendant’s counsel  
6 with proper statutory notice of this application via e-mail to Defendant’s counsel at approximately 3:44  
7 p.m. on June 9, 2025. (Vakili Decl., at ¶ 5 & Exh. “1”.) Plaintiff has not previously submitted any other  
8 *ex parte* applications of the same character, or which sought the same relief as sought by this  
9 Application. (CRC Rule 3.1202(b).) Accordingly, Plaintiff has met the CRC’s requirements. (See CRC  
Rules 3.1203(a) & 3.1204(a).)

## 10 **II. ARGUMENT**

### 11 ***A. Applicable Legal Standard***

12 Rule 3.1202(c) provides that a party seeking *ex parte* relief “must make an affirmative factual  
13 showing in a declaration containing competent testimony based on personal knowledge of irreparable  
14 harm, immediate danger, or any other statutory basis for granting relief ex parte.” (Rule 3.1202(c).) A  
15 court’s ruling on an *ex parte* application will only be overturned on appeal if it constitutes an abuse of  
16 discretion. (See, *Hupp v. Solera Oak Valley Greens Ass’n* (2017) 12 Cal.App.5th 1300, 1309.)  
Accordingly, courts have broad discretion to grant relief.

### 17 ***B. Good Cause Exists to Grant the Ex Parte Relief Requested.***

#### 18 ***1. This Court Has Inherent and Statutory Powers to Control Its Cases and Calendar*** 19 ***and Has Broad Discretion to Set the Hearing Date on the MSA.***

##### 20 ***a. The Court’s Inherent Powers to Control the Litigation***

21 Trial courts have “inherent equity, supervisory and administrative powers [citation] as well as  
22 inherent power to control litigation before them.” (*Cottle v. Super. Ct. (Oxnard Shores Co.)* (1992) 3  
23 Cal.App.4th 1367, 1377 (“*Cottle*”).) This inherent authority includes the authority to “manage calendars  
24 and control proceedings before them.” (*McMahon v. Super. Ct. (Am. Equity Ins. Co.)* (2003) 106  
25 Cal.App.4th 112, 117.) Indeed, California law unequivocally establishes that a trial court has the  
26 inherent power and responsibility to fairly and efficiently administer all proceedings pending before it,  
27 which includes the power to control its proceedings to ensure the economic and judicious use of the  
28 parties’, and the Court’s, valuable time and resources. (See, *Cottle, supra*, 3 Cal.App.4th at 1377-78  
(citing several cases).) “There is nothing novel in the concept that a trial court has the power to exercise

1 a reasonable control over all proceedings connected with the litigation before it. Such power necessarily  
2 exists as one of the inherent powers of the court and such power should be exercised by the courts in  
3 order to insure the orderly administration of justice.” (*Hays v. Super. Ct.* (1940) 16 Cal.2d 260, 264.)

4 Given the summary nature of proceedings and the likelihood that, based on this Court’s prior  
5 rulings and remarks, the Court may grant summary adjudication in connection with Plaintiff’s MSA, it  
6 would be much more efficient and economical for this Court to specially set or otherwise hear Plaintiff’s  
7 MSA prior to the scheduled trial date since that could completely obviate the need for a trial on the  
8 merits or, alternatively, narrow the issues that need to be tried and shorten the length of any trial.

9 ***b. The Court’s Statutory Powers to Grant the Ex Parte Relief Requested***

10 The CCP independently and concurrently vests a trial court with the power to control its cases  
and calendar, providing in relevant part that:

11 Every court shall have the power to do all of the following:

12 ...

(3) To provide for the orderly conduct of proceedings before it, or its officers.

13 ...

(5) To control in furtherance of justice, the conduct of its ministerial officers, and of all  
14 other persons in any manner connected with a judicial proceeding before it, in every  
15 matter pertaining thereto.

16 (CCP § 128(a); *see also* CCP § 187 (“When jurisdiction is, by the Constitution or this Code, or by any  
17 other statute, conferred on a Court or judicial officer, all the means necessary to carry it into effect are  
18 also given[.]”).) This provides a complementary statutory basis for this Court to specially set the hearing  
on SFC’s MSA.

19 ***2. Irreparable Harm Would Result if the Requested Ex Parte Relief Is Not Granted.***

20 If this Application is denied, Plaintiff SFC will suffer irreparable harm and prejudice in that: (1)  
21 the MSA would not be heard; (2) SFC would inevitably need to prepare for trial despite the likelihood  
22 that the MSA would resolve this Action or significantly limit the issues to be presented at trial; (3)  
23 although SFC timely filed its MSA with more than the requisite notice of 81 days, it would lose its  
24 statutory opportunity to summarily resolve this case through no fault of its own; (4) SFC may be forced  
25 to seek a continuance of the trial on noticed motion to ensure that the MSA is heard, which would delay  
26 the ultimate resolution of this action and result in additional time and resource expenditure by the parties  
27 and this Court; and (5) SFC may be compelled to file an appeal or motion for reconsideration if this  
28 Court issues an order or judgment in this Action which, had the Motion been heard, would likely have

1 been more favorable to SFC, whereas specially setting the hearing for the Motion could potentially avoid  
2 that need. Granting the relief requested in this Application would prevent each of these outcomes.

3 **III. CONCLUSION**

4 For the foregoing reasons, Plaintiff respectfully requests this Court to grant this Application and  
5 specially set the hearing date on Plaintiff's pending MSA—presently set for October 16, 2025—to a  
6 date on or around August 14, 2025, so it may be heard at least thirty (30) days prior to the scheduled  
7 trial date of September 15, 2025.

8 DATED: June 9, 2025

**VAKILI & LEUS, LLP**

9  
10 By: 

Sa'id Vakili, Esq.

*Attorneys for Plaintiff Software Freedom  
Conservancy, Inc.*

**DECLARATION OF SA'ID VAKILI**

I, SA'ID VAKILI, state and declare as follows:

1. I am a partner with the law firm of Vakili & Leus, LLP and counsel of record for Plaintiff Software Freedom Conservancy, Inc. ("SFC" or "Plaintiff") in this action. Through my representation of SFC in this matter, I have personal knowledge of the matters set forth herein and, if called as a witness, I could and would testify competently as to their truth, except as to the matters stated on information and belief and as to such matters, I believe them to be true. I am submitting this declaration in support of SFC's Unopposed, Non-Appearence Ex Parte Application to Specially Set the Hearing Date on Its Motion for Summary Adjudication of Issues (the "Application").

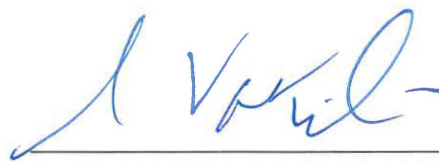
2. Plaintiff timely filed its Motion for Summary Adjudication of Issues ("MSA") on May 23, 2025. In preparing its MSA, my office secured the earliest hearing date available for hearing an MSA—i.e., October 16, 2025—which is well after the September 15, 2025 Trial date.

3. Before filing this Application, Plaintiff's counsel contacted Michael E. Williams ("Mr. Williams"), counsel for Defendant VIZIO, Inc. ("VIZIO"), to meet and confer regarding whether Defendant will agree to have SFC's MSA heard at least 30 days before the September 15, 2025 trial date and possibly have both SFC's pending MSA and VIZIO's pending MSA heard simultaneously. Mr. Williams indicated that VIZIO would not oppose SFC's Application to specially set the hearing date, but that VIZIO wants its pending MSA (scheduled for July 24, 2025) heard before SFC's MSA.

4. Mr. Williams and I also discussed having SFC's MSA heard less than 30 days before trial, provided that it falls within a few days of the 30 days and does not conflict with Mr. Williams' other court-related commitments. These discussions were confirmed via email. Attached hereto as Exhibit "1" is a true and correct copy of my email exchanges with Mr. Williams.

5. I provided Defendant's counsel with proper statutory notice of this Application via e-mail at approximately 3:44 p.m. on June 9, 2025. (See, Exhibit "1" attached hereto.)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on June 9, 2025, in Los Angeles, California.



SA'ID VAKILI, DECLARANT



Exhibit: “1”

**From:** Said Vakili vakili@vakili.com  
**Subject:** Re: SFC v. VIZIO - Hearing Dates/Times for ExPA to Specially Set MSA  
**Date:** June 9, 2025 at 3:44 PM  
**To:** Michael E. Williams, Esq. michaelwilliams@quinnemanuel.com  
**Cc:** QE-SFC-VIZIO qe-sfc-vizio@quinnemanuel.com, Jason Ming jason@vakili.com, Stephen P. Hoffman hoffman@vakili.com

SV

Thank you, Michael. This will confirm that on **June 11, 2025 at 9:30 a.m.** in **Department C-33** of the Orange County Superior Court located at 700 Civic Center Drive West in Santa Ana, CA 92701, Plaintiff Software Freedom Conservancy, Inc. will move ex parte for an order specially setting the hearing date on its pending Motion for Summary Adjudication so that it may be heard 30 days before trial or shortly thereafter.

When Jason made the reservation earlier today, he was informed that Judge Leal does not hear any argument on ExPAs and that she rules in chambers and will notify counsel of her ruling. In other words, no appearance is necessary.

Very best,

*Sa'id Vakili*

**VAKILI & LEUS, LLP**

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Los Angeles, California 90010-2822

**213/380-6010** | Fax: 213/380-6051

<http://www.vakili.com>

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On Jun 7, 2025, at 11:42 AM, Michael E Williams <michaelwilliams@quinnemanuel.com> wrote:

Thanks Sa'id. With respect to our position, since the court only hears law and motions on Thursdays, it would seem like August 14 would be the last day to have it heard which would provide us with sufficient notice based on the filing deadline. That would be our preference. If the court couldn't set it on that date, i would need to see what dates are being proposed on/around August 14 before I could take a position on it to make sure I don't have a conflict with it. As of now, I have a trial scheduled to start on August 19 in LASC. So i think it would be fair to say that we do not oppose specially setting it for August 14, however, if for some reason that date is not available, we would need to know the alternatives before we can take a position on it.

And we do oppose scheduling our MSA on the same day as your MSA for the reasons we discussed.

Michael

---

**From:** Said Vakili <[vakili@vakili.com](mailto:vakili@vakili.com)>

**Sent:** Saturday, June 7, 2025 10:44 AM

**To:** Michael E Williams <[michaelwilliams@quinnemanuel.com](mailto:michaelwilliams@quinnemanuel.com)>

**Cc:** QE-SFC-VIZIO <[qe-sfc-vizio@quinnemanuel.com](mailto:qe-sfc-vizio@quinnemanuel.com)>; Jason Ming <[jason@vakili.com](mailto:jason@vakili.com)>; Stephen P. Hoffman <[hoffman@vakili.com](mailto:hoffman@vakili.com)>

**Subject:** Re: SFC v. VIZIO - Hearing Dates/Times for ExPA to Specially Set MSA

[EXTERNAL EMAIL from [vakili@vakili.com](mailto:vakili@vakili.com)]

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Good morning Michael—

I plan to go in on Wednesday morning; I'll send out a formal notice separately. To confirm, you're not opposing our ExPA to the extent that we're only seeking to specially set it 30 days before trial. We also discussed that if the Court needed to set it a few days less than 30 days before trial, you would be fine with that. Lastly, you mentioned that you didn't want your MSA to be rescheduled so that both MSAs could be heard at the same time. Please let me know if any of this is inaccurate.

Thank you,

*Sa'id Vakili*

**VAKILI & LEUS, LLP**

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On Jun 7, 2025, at 8:56 AM, Michael E Williams  
<[michaelwilliams@quinnemanuel.com](mailto:michaelwilliams@quinnemanuel.com)> wrote:

Sa'id,

Do you know which day (Tuesday or Wednesday) you would be going in ex parte so I can plan accordingly? Thanks.

Michael

---

**From:** Michael E Williams

**Sent:** Thursday, June 5, 2025 4:37 PM

**To:** Said Vakili <[vakili@vakili.com](mailto:vakili@vakili.com)>; QE-SFC-VIZIO <[qe-sfc-vizio@quinnemanuel.com](mailto:qe-sfc-vizio@quinnemanuel.com)>

**Cc:** Jason Ming <[jason@vakili.com](mailto:jason@vakili.com)>; Stephen P. Hoffman <[hoffman@vakili.com](mailto:hoffman@vakili.com)>

**Subject:** RE: SFC v. VIZIO - Hearing Dates/Times for ExPA to Specially Set MSA

Thanks Sa'id. I could do Tuesday or Wednesday morning.

Michael

---

**From:** Said Vakili <[vakili@vakili.com](mailto:vakili@vakili.com)>

**Sent:** Thursday, June 5, 2025 2:47 PM

**To:** Michael E Williams <[michaelwilliams@quinnemanuel.com](mailto:michaelwilliams@quinnemanuel.com)>; QE-SFC-VIZIO <[qe-sfc-vizio@quinnemanuel.com](mailto:qe-sfc-vizio@quinnemanuel.com)>

**Cc:** Jason Ming <[jason@vakili.com](mailto:jason@vakili.com)>; Stephen P. Hoffman <[hoffman@vakili.com](mailto:hoffman@vakili.com)>  
**Subject:** SFC v. VIZIO - Hearing Dates/Times for ExPA to Specially Set MSA

[EXTERNAL EMAIL from [vakili@vakili.com](mailto:vakili@vakili.com)]

---

Michael—

Judge Leal hears ExPAs every day except Thursdays. They are scheduled for 9:30 a.m., and reservations must be made by noon the day before. What days next week would work best for you?

Thanks,

*Sa'id Vakili*

**VAKILI & LEUS, LLP**

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1 **PROOF OF SERVICE**

2 *Software Freedom Conservancy, Inc. v. VIZIO, Inc., et al.*  
3 *OCSC Case No.: 30-2021-01226723-CU-BC-CJC*

4 I am employed in the County of Los Angeles, State of California. I am over the age of 18 and  
5 not a party to the within action. My business address is 3701 Wilshire Boulevard, Suite 1135, Los  
6 Angeles, California 90010.

7 On June 9, 2025, I served the foregoing document described as **PLAINTIFF SOFTWARE  
8 FREEDOM CONSERVANCY, INC.'S UNOPPOSED, NON-APPEARANCE EX PARTE  
9 APPLICATION TO SPECIALLY SET THE HEARING DATE ON ITS MOTION FOR  
10 SUMMARY ADJUDICATION OF ISSUES; DECLARATION OF SA'ID VAKILI IN SUPPORT  
11 THEREOF** on all interested parties in this action at the addresses listed below, as follows:

12 **QUINN EMANUEL URQUHART & SULLIVAN, LLP**

13 Michael E. Williams, Esq. ([michaelwilliams@quinnemanuel.com](mailto:michaelwilliams@quinnemanuel.com))

14 Daniel C. Posner, Esq. ([danposner@quinnemanuel.com](mailto:danposner@quinnemanuel.com))

15 John Z. Yin, Esq. ([johnyin@quinnemanuel.com](mailto:johnyin@quinnemanuel.com))

16 Arian J. Koochesfahani, Esq. ([ariankoochesfahani@quinnemanuel.com](mailto:ariankoochesfahani@quinnemanuel.com))

17 865 South Figueroa Street, 10<sup>th</sup> Floor

18 Los Angeles, California 90017-5003

19 **213/443-3000** | Fax: 213/443-3100

20 *Counsel for Defendant Vizio, Inc.*


21 ☐ OVERNIGHT DELIVERY (DROP-OFF) (CCP §1013(c)). By placing a true copy  
22 thereof enclosed in a sealed envelope or package as designated by an overnight mail courier, addressed  
23 as above, and depositing said envelope or package, with delivery fees provided for, in a box regularly  
24 maintained by the overnight mail courier at 3701 Wilshire Boulevard, Los Angeles, California 90010.

25 ☒ VIA ELECTRONIC TRANSMISSION. I caused to be transmitted a true copy thereof  
26 to each of the designated counsel listed above to his respective e-mail address, pursuant to California  
27 *Code of Civil Procedure* § 1010.6. I did not receive, within a reasonable time after the transmission,  
28 any electronic message or other indication that the transmission was unsuccessful.

☐ PERSONAL DELIVERY. I caused to be served by messenger for personal delivery that  
same day the foregoing documents in a sealed envelope to the above persons at the address(es) listed in  
the attached Service List.

I declare under penalty under the laws of the State of California that the above is true and correct.  
Executed on June 9, 2025, at Los Angeles, California.

25 Daphne Gomez  
26 (Printed Name)

  
\_\_\_\_\_  
(Signature)