

COPY

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FIVE

RWW PROPERTIES LLC,

Petitioner,

v.

THE SUPERIOR COURT OF ALAMEDA
COUNTY,

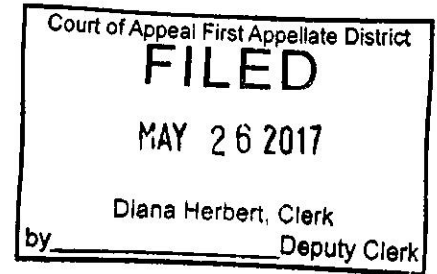
Respondent;

MEGAN E. ZAVIEH,

Real Party in Interest.

A150816

Alameda No. HG12615549



ORDER ISSUING ALTERNATIVE WRIT OF MANDATE

BY THE COURT:*

The court has conducted a detailed review of the record and the parties' briefing regarding this petition. Preliminarily, the court rejects real party in interest's contention that this petition was untimely filed under Code of Civil Procedure section 405.39. (Code Civ. Proc., § 1013, subd. (a); *L.C. Rudd & Son, Inc. v. Superior Court* (1997) 52 Cal.App.4th 742, 746.) Additionally, from a review of the applicable provisions of the California Rules of Court and case law, the court concludes that it appears respondent superior court erred when it denied petitioner's motion for attorney's fees as untimely.

Therefore, let an alternative writ of mandate issue commanding respondent Alameda County Superior Court, in *Zavieh v. JP Morgan Chase Bank, N.A.*, Case No. HG12615549, to set aside and vacate its February 21, 2017 order denying petitioner's motion for attorney's fees as untimely, and to enter a new and different order calendaring

* Before Jones, P.J., Simons, J. and Bruiniers, J.

a hearing to decide the merits of petitioner's motion for attorney's fees; or, in the alternative, to appear and show cause before Division Five of this court why a peremptory writ of mandate should not be granted.

If respondent superior court complies with this court's directives as set forth above, and does so on or before June 12, 2017, the court will discharge the alternative writ, and dismiss the petition as moot.

Petitioner shall immediately, but no later than June 13, 2017, inform this court by letter of respondent court's decision, and shall serve and file in this court any new orders issued by respondent.

Should respondent court choose not to follow the above procedure, but instead to appear and show cause before this court why a peremptory writ of mandate should not issue, this matter will be heard before Division Five when ordered on calendar.

The alternative writ is to be issued, served and filed on or before May 26, 2017, and shall be deemed served upon mailing by the clerk of this court of certified copies of the alternative writ and this order to all parties and to respondent superior court.

A written return to the alternative writ shall be served and filed on or before July 3, 2017, and a reply to the return shall be served and filed on or before July 24, 2017. (Cal. Rules of Court, rule 8.487(b).) If, however, respondent superior court complies with the alternative writ, and proof thereof is filed herein on or before those dates, then no return or reply need be filed.

Date MAY 26 2017

Jones, P.J. P.J.