

*Call ✓*

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8 Attorney for Plaintiff ERIC WILSON

9 SUPERIOR COURT OF CALIFORNIA  
10 COUNTY OF ORANGE

11 ERIC WILSON, an individual  
12 Plaintiff,  
13 vs.  
14 STEVEN T. KIRSCH, an individual;  
15 DAVID BESA, an individual; JONATHAN  
16 C. HARLOW, an individual; PHILIP  
17 BOWLES, an individual; GENE  
18 CARMEAN, an individual; DAVID M.  
19 KORPI, an individual; THOMAS B.  
20 ADLER, an individual; MARK KLEIN, an  
21 individual; MARK R. GATELEY, an  
22 individual; WAYNE RICHARD FAY, an  
23 individual; DEIRDRE COGHLAN, an  
24 individual; RICHARD M. KERBEL, an  
25 individual; STEVE LANER, an individual;  
26 LEGACY FARMS, LLC, a California  
27 Limited Liability Company and DOES 1-  
28 1000, inclusive,  
Defendants.

Case No. 04CC07429

OPPOSITION TO SPECIAL MOTION TO STRIKE THE FIRST AND SECOND CAUSES OF ACTION OF THE COMPLAINT PURSUANT TO CCP §425.16; DECLARATION OF JAMES H. CASELLO

Assigned For All Purposes To:  
Hon. Randell L. Wilkinson  
Dept. C-19

Date: October 6, 2004  
Time: 1:30 p.m.  
Dept.: C-19  
Trial Date: None

Complaint Filed: July 7, 2004

TO DEFENDANTS AND THEIR ATTORNEY OF RECORD:

Plaintiff respectfully submits the following Opposition in response to the Motion of defendants pursuant to CCP §425.16.

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I.

**THE MOTION IS MOOT AS THIS ACTION IS BEING DISMISSED  
CONCURRENTLY HEREWITH**

Plaintiff Eric Wilson is filing and serving concurrently herewith a Request for Dismissal of this action thereby rendering the request to dismiss this action moot. As reflected in the attached Declaration of James H. Casello, the reason for the dismissal is twofold:

a. The primary purpose of the lawsuit has been accomplished: to stop the filing of multiple small claims actions against Eric Wilson up and down the state with hearings set at or near the same time has ceased; and

b. Recent events has resulted in their being no funds to finance the pursuit of this litigation.

II.

**CONCLUSION**

This action having been dismissed, the relief requested has already been obtained rendering the motion moot and should be taken off calendar or denied.

Dated: September 23, 2004

Respectfully submitted,

CASELLO & LINCOLN

  
James H. Casello, Attorneys for Defendants,  
FAX.COM, INC. and KEVIN KATZ





ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): James H. Casello CASELLO & LINCOLN 1551 N. Tustin Ave. Ste. 850 Santa Ana, CA 92705-8636	TELEPHONE NO.: (714) 541-8700	FOR COURT USE ONLY
ATTORNEY FOR (Name): <b>ERIC WILSON</b> Insert name of court and name of judicial district and branch court, if any: Orange County Superior Court Central Justice Center		
PLAINTIFF/PETITIONER: ERIC WILSON, an individual  DEFENDANT/RESPONDENT: STEVEN T. KIRSCH, an individual; et al.		
<b>REQUEST FOR DISMISSAL</b> <input type="checkbox"/> Personal Injury, Property Damage, or Wrongful Death <input type="checkbox"/> Motor Vehicle <input checked="" type="checkbox"/> Other Abuse of Process and Unfair Competition <input type="checkbox"/> Family Law <input type="checkbox"/> Eminent Domain <input type="checkbox"/> Other (specify):		


— A conformed copy will not be returned by the clerk unless a method of return is provided with the document. —

1. TO THE CLERK: Please dismiss this action as follows:
- a. (1)  With prejudice      (2)  Without prejudice
- b. (1)  Complaint      (2)  Petition  
 (3)  Cross-complaint filed by (name):  
 (4)  Cross-complaint filed by (name):  
 (5)  Entire action of all parties and all causes of action  
 (6)  Other (specify):\*

on (date):  
on (date):

Date: September 23, 2004

James H. Casello  
 (TYPE OR PRINT NAME OF  ATTORNEY  PARTY WITHOUT ATTORNEY)

CASELLO & LINCOLN  
  
 (SIGNATURE)  
 Attorney or party without attorney for: ERIC WILSON  
 Plaintiff/Petitioner       Defendant/Respondent  
 Cross-complainant

\* If dismissal requested is of specified parties only, of specified causes of action only, or of specified cross-complaints only, so state and identify the parties, causes of action, or cross-complaints to be dismissed.

2. TO THE CLERK: Consent to the above dismissal is hereby given.\*\*

Date:  
 (TYPE OR PRINT NAME OF  ATTORNEY  PARTY WITHOUT ATTORNEY)

(SIGNATURE)  
 Attorney or party without attorney for:  
 Plaintiff/Petitioner       Defendant/Respondent  
 Cross-complainant

\*\* If a cross-complaint - or Response (Family Law) seeking affirmative relief - is on file, the attorney for cross-complainant (respondent) must sign this consent if required by Code of Civil Procedure section 581(i) or (j).

(To be completed by clerk)

3.  Dismissal entered as requested on (date):  
 4.  Dismissal entered on (date):      as to only (name):  
 5.  Dismissal not entered as requested for the following reasons (specify):  
  
 6.  a. Attorney or party without attorney notified on (date):  
     b. Attorney or party without attorney not notified. Filing party failed to provide  
      a copy to conform       means to return conformed copy

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_ Deputy

