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Attorney for Defendant  
OCM Mortgage Corporation

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SANTA CLARA**

Mark Klein

Plaintiff,

vs.

OCM Mortgage Corporation

Defendant.

Case No:204SC001606  
Assigned to Court Room:14  
Hon. Judge Kleinberg

NOTICE OF MOTION AND MOTION TO  
TRANSFER SMALL CLAIMS ACTION TO  
SUPERIOR COURT; MEMORANDUM OF  
POINTS AND AUTHORITIES AND  
SUPPORTING DECLARATION OF  
SUNIL A. BRAHMBHATT, ESQ.

DATE: February 23, 2005  
TIME: 9:00a.m.  
COURTROOM: 14

**COMES NOW**, Defendant OCM, Inc., a California Corporation and request that the instant  
Small Claims matter be transferred to the Superior Court of California for the County of Orange  
action, as follows;

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Notice of Motion and Motion to  
Transfer Small Claims Action

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**NOTICE IS HEREBY GIVEN** that, on February 23, 2005 at 9:00a.m in Courtroom 14 of the above-entitled court located at, 191 N. First Street, San Jose, CA 95113, Defendant OCM Mortgage Corporation will request the court for an Order to transfer the instant Small Claims matter to Orange County Superior Court Case No: 05CL00301; OCM, Inc., v. Mark Klein.

This motion is being made pursuant to Code of Civil Procedure§ 116.390 and based on this Notice of Motion, Memorandum of Points and Authorities; Declaration of Sunil A. Brahmhatt, Esq., filed and served herewith, on the records on file herein, and such evidence as may be presented at the hearing of the motion.

Dated: January 18, 2005

LAW OFFICE OF  
SUNIL A. BRAHMBHATT  
A Professional Law Corporation



Sunil A. Brahmhatt, Esq.  
Attorney for Defendant OCM, Inc., a  
California Corporation

Notice of Motion and Motion to  
Transfer Small Claims Action

**MEMORANDUM AND POINTS AND AUTHORITIES**

**I**

**PROCEDURAL BACKGROUND**

Plaintiff Mark Klein filed this instant case in Small Claims court on September 9, 2004 against Defendant OCM, Inc, a California Corporation (“OCM”).

On November 11, 2004 a Small Claims Trial was held and judgment rendered for the Plaintiff in the amount of \$2,500.00 and costs of \$111.00. Defendant OCM has filed an appeal and the matter had been set for a Small Claims Trial- De Novo and has been continued pending this instant motion.

On January 14, 2005, OCM filed a Superior Court Action against Mark Klein in Orange County Superior Court, Case No: 05CL00301 arising out of the same facts, events and transactions. A time and correct copy of the Summons and Complaint is attached hereto as Exhibit “A” and made a part hereof.

**II**

**TRANSFER OF THE SMALL CLAIMS**

**MATTER IS AUTHORIZED LAW**

California Code of Civil Procedure § 116.390 states in pertinent part that;

*“(a) If a Defendant has a claim against a Plaintiff that exceeds the jurisdiction limits stated in sections 116.220 and 116.231, and the claim relates to the contracts, transaction, matter, or event which is the subject matter of the Plaintiff’s claims, the defendant may commence an action against the Plaintiff in a court of competent jurisdiction and request the small claims court to transfer the small claims action to that court.”*

This instant case the Orange County Superior Court case arises out of the same transaction complained of in the Small Claims action. (See Declaration of Sunil A. Brahmhbhatt., Esq., filed concurrently herewith)(See Exhibit “A”). It is appropriate that the Small Claims case be transferred to Orange County for final resolution.

Notice of Motion and Motion to  
Transfer Small Claims Action

III

CONCLUSION

Based on the foregoing, transfer of this small claims matter is appropriate.

Dated: January 18, 2005

LAW OFFICE OF  
SUNIL A. BRAHMBHATT  
A Professional Law Corporation



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Sunil A. Brahmhatt, Esq.  
Attorney for Defendant OCM, Inc., a  
California Corporation

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**DECLARATION OF SUNIL A. BRAHMBHATT, ESQ.**

I, Sunil A. Brahmhbhatt, Esq., declare as follows;

1. I am a duly licensed attorney licensed to practice before all the courts within the State of California and have personal knowledge of the facts set forth hereinbelow in this declaration and can competently testify thereto, if required to do so.
2. I am the attorney of record for OCM, Inc., in the action filed in Orange County Superior Court Case No: 05CL00301 against Mark Klein.
3. Attached as Exhibit "A" hereto is a true and correct copy of the action filed in Orange County Superior Court by OCM against Mark Klein.
4. The Orange County Action arises from and relates to the same claim being asserted by Mark Klein in this instant small claims case. OCM's claims against Mark Klein is greater than \$5,000 and less than \$10,000.00.

I declare under Penalty of Perjury under the Laws of the State of California that the foregoing is true and correct.

Dated: January 18, 2005



Sunil A. Brahmhbhatt, Esq.  
Declarant.

04-402 ca/appl to transfer case