21-Nov-2002 Prytulak-Reply-D7 Judge James R. Dunn

In propria persona:
Lubomyr Prytulak
[Address]

Telephone: [Telephone]
Email: lubomyr@shaw.ca

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

Steven RAMBAM Plaintiff vs Lubomyr PRYTULAK Defendant	Case No. BC 271433 DEFENDANT PRYTULAK ANSWER TO "PLAINTIFF'S OPPOSITION TO MOTION TO SET ASIDE DEFALT; MEMORANDUM OF POINTS AND AUTHORITIES" which was filed 12-Nov-2002 [Not a general appearance CCP §418.10]

Defendant Lubomyr Prytulak answers the Plaintiff Opposition above, and impeaches the credibility of Plaintiff Steven Rambam.

THE KURTZ-RAMBAM LAW SUIT IS A SHAM

If Plaintiff's staging of *Rambam v Prytulak* were not a sham, then Kurtz-Rambam would have at the outset -- in their complaint -- laid out why California had been at one time correct to *decline* jurisdiction over New Yorker Mordechai Levy in *JDO v Superior Court*, but was at a later time correct to *accept* jurisdiction over Canadian Lubomyr Prytulak in *Rambam v Prytulak*. However, approaching eight months following their initial complaint of 04-Apr-2002, Kurtz-Rambam still act as if their defeat in *JDO v Superior Court* had never taken place, and as if the question of jurisdiction in *Rambam v Prytulak* is one which they are under no obligation to address.

Having been defeated in California courts in 1999, Gary Kurtz and Steven Rambam return with an even weaker case in 2002, and with no explanation over the course of eight months of why they hope to win now when they lost earlier. Nothing more than this is needed to demonstrate that their law suit is a sham — though much more is available, as is documented below.

THE COURT MUST RECAPTURE ITS AUTHORITY BY RESTORING SIX MISSING DOCUMENTS TO THE TRIAL RECORD

Six litigant submissions have been suppressed or destroyed so far, five of them Prytulak submissions, and one a Plaintiff submission that was helpful to the defense. Two money orders submitted by Prytulak have also vanished while in the hands of the Court. In no case has any individual stepped forward to take responsibility for the suppression or destruction, and in no case has any authority been cited to justify it. Of the five missing Prytulak submissions, none was ever returned to Prytulak, and no feedback was ever offered as to how they might be revised so as to make them acceptable to the Court, and no explanation was ever offered as to their fate.

The issue is not merely one of submissions failing to meet requirements as formal motions, but it is more broadly the Court's failure to in any way acknowledge their receipt, or to give them any place on the trial record, as for example by filing them as "correspondence received." The perception which attaches to the Court, and which the Court makes no effort to correct, is that documents are being expurgated so as to leave Defendant Prytulak with too meager a trial record to launch an appeal.

Lubomyr Prytulak has documented in his Prytulak-Reply-D3, in the section titled *Should Court Clerks Give Legal Advice?*, that such treatment is unusual and atypical, which may be one of the reasons that Prytulak-Reply-D3 finds itself among the six documents that have been suppressed or destroyed.

Lubomyr Prytulak, furthermore, can find no authority for such Court treatment in the California CCP dealing with the retention and disposition of litigation documents, §1952, §1952.2, and §1952.3.

Prytulak notices, finally, that the suppression or destruction of litigant submissions is a criminal offense, and wonders why it has not become the subject of a criminal investigation:

> **California Penal Code §135.** Every person who, knowing that any book, paper, record, instrument in writing, or other matter or thing, is about to be produced in evidence upon any trial, inquiry, or investigation whatever, authorized by law, willfully destroys or conceals the same, with intent thereby to prevent it from being produced, is guilty of a misdemeanor.

The six documents suppressed or destroyed so far are as follows:

1. Motion-to-Quash-B dated 27-May-2002
   www.ukar.org/temp/quash02.html
2. Prytulak-Query-B dated 14-Jun-2002
   www.ukar.org/temp/query01.html
3. Motion-to-Quash-C dated 29-Aug-2002, accompanied by a money order for US$193
   www.ukar.org/temp/quash03.html
4. Rambam-Objection-C dated 03-Sep-2002
   www.ukar.org/temp/obj03sep.html
5. Prytulak-Reply-C dated 13-Sep-2002, accompanied by a money order for US$23
   www.ukar.org/temp/rep13sep.html
6. Prytulak-Reply-D3 dated 05-Nov-2002
   www.ukar.org/temp/rep05nov.html

Lubomyr Prytulak asks the Court to restore the six above documents to the trial record, and to account for their exclusion from the trial record to date. Needless to say, if the trial record is to be considered complete, then the instant submission needs to be included as well.

WHAT IS ANYONE TO MAKE OF GARY KURTZ'S LATEST SUBMISSION, RECEIVED BY LUBOMYR PRYTULAK 18-Nov-2002?

1. An exhaustive refutation of Gary Kurtz's submission is neither possible, nor necessary

Defendant Lubomyr Prytulak received the Kurtz submission by mail on 18-Nov-2002, leaving him inadequate time to both write and notice a reply before the hearing of 25-Nov-2002. Gary Kurtz is able to pile up in a few hours of impulsive writing enough distortions and falsifications as would take Lubomyr Prytulak a week of hard labor to refute. Thus, Prytulak's present submission will have to touch upon only a few points raised by Kurtz.

Fortunately, though, it cannot escape notice that Gary Kurtz imagines that a refuted argument need not be abandoned or revised, but rather that if it is repeated, it has a chance of winning acceptance either through brute inculcation, or from finding itself in the influential position of appearing as the final utterance in a long exchange. In view of the scarcity of time, and from the desirability of avoiding redundancy, Prytulak refrains from addressing much of the Gary Kurz submission as just such repetition of fallacy that has already been refuted, and trusts the Court to remain unpersuaded by its mere repetition, or by its securing the position of last word. Although Gary Kurtz has the discretion to ignore Defendant Prytulak arguments and evidence — most particularly Prytulak-Reply-D3 — Prytulak can continue to hope that these documents will ultimately be read by an impartial

court, and that justice will be done.

2. Kurtz and Rambam play their last card, which is the 39-page-long VNN Hoax

Gary Kurtz's Exhibit 1 dedicates a whopping 39 pages to reproducing the contents of a web page (www.vanguardnewsnetwork.com/letters195.htm) from a site that Lubomyr Prytulak had never heard of — vanguardnewsnetwork.com, abbreviated VNN — and furthermore that Prytulak had never visited, and to which Prytulak had never submitted any materials, and in which Prytulak was never a participant in any discussion group. Despite this, a Lubomyr Prytulak statement originally emailed to the recipients of his mailing list is in fact reproduced on that VNN web page, which elicits from Gary Kurtz (on his p. 6) the following ill-considered and intemperate outburst:

> Defendant is a participant on an outrageous neo-Nazi web site. In a posting on that web site, defendant boasts:
>
> > Up to now, I've been enjoying myself seeing if I could beat the Rambam suit without hiring a lawyer, but if he has the misfortune to win in front of Judge Dunn, then I will hire a lawyer to overturn Dunn....

However, a more cautious investigator than Gary Kurtz, one wishing to protect the Los Angeles Superior Court from a further waste of its time, one wishing to protect his own reputation from the perception of slovenliness, might have noted that the Prytulak statement could have been emailed to VNN by anybody, as in fact neither the contributor's name, nor his email address, are specified. Other signals contradicting Kurtz's facile conclusion are that the Prytulak statement (1) does not address other VNN discussion-group members (but rather addresses "UKAR subscribers"), (2) does not address any topic under discussion on VNN, and (3) does not elicit any comment or reply from any VNN member. The Prytulak statement, rather, obtrudes itself as an incongruity on that VNN page, which together with the statement's anonymous submission calls to mind the possibility that it was planted on VNN, as by a Rambam sympathizer or sponsor, in the hope of discrediting Lubomyr Prytulak by giving him the appearance of feeling himself at home with the VNN group.

In an attempt to evaluate this hypothesis, Lubomyr Prytulak performed the elementary verification that Gary Kurtz should have performed before burdening the Court with 39 irrelevant and inflammatory pages. That is, Lubomyr Prytulak simply wrote to the email address supplied on the VNN site as follows:

----- Original Message -----
From: Lubomyr Prytulak <lubomyr@shaw.ca>
To: <alinder@kvmo.net>
Sent: Monday, November 18, 2002 12:38 PM
Subject: Please clarify

Hello, Webmaster!

I notice that at

http://www.vanguardnewsnetwork.com/letters195.htm

there appears something attributed to me, whose beginning and end are:

Subject: UKAR

Hello, UKAR subscribers!

[...]

Lubomyr Prytulak

I notice that there is no identification of who it is that submitted this information to your site.

My reason for writing is that I am being accused, in a law suit in Los Angeles, of having myself posted this material on your site, which I did not, and of being a participant on your web site, which I am not.

I wonder if you would be able to help me out by giving me some feedback on this question?

Regards,
Lubomyr Prytulak
Ukrainian Archive
www.ukar.org

And to which Lubomyr Prytulak, after further email communication, received the following reply (the discrepant time possibly having to do with the emails originating in different time zones):

----- Original Message -----
From: <alinder@kvmo.net>
To: Lubomyr Prytulak <lubomyr@shaw.ca>
Sent: Monday, November 18, 2002 2:00 AM
Subject: Re: Please clarify

11/18/02

Mr Prytulak: This is to confirm for whoever cares that I post whatever interesting information comes my way, most of which is forwarded by readers via email, often anonymous or pseudonymous. Many readers have forwarded me stuff from your site at many different times, but as far as I know you yourself have never done so.

I have no idea who forwarded the particular thing I posted in that particular Letters, nor is there any way I can check.

If the court or anybody wants further information, contact me here by email.

Sincerely,

Alex Linder
alinder@kvmo.net

That Alex Linder is indeed the owner of the VNN web site is readily confirmed on the VeriSign WhoIs page by typing in the VNN URL "vanguardnewsnetwork.com" and which unearths the following information:

Registrant:
Alex Linder
PO Box 101
Kirksville, MO 63501
US

Registrar: Dotster (http://www.dotster.com)
Domain Name: VANGUARDNEWSNETWORK.COM
Created on: 03-OCT-00
Expires on: 03-OCT-03
Last Updated on: 25-SEP-01

Administrative Contact:
Linder, Alex alinder@kvmo.net
Alex Linder
POB 101
Kirksville, MO 63501
US
660 665 9740
www.netsol.com/cgi-bin/whois/whois

The sentence, "Defendant is a participant on an outrageous neo-Nazi web site," that Rambam lawyer Gary Kurtz wrote on p. 6, he repeats on p. 16. Furthermore, on p. 6, Gary Kurtz adds the following gratuitous and provocative statement: "Perish the thought that defendant would have to leave his neo-Nazi sanctuary and travel to a library."

Lubomyr Prytulak requests that Gary Kurtz's misleading and inflammatory 39-page Exhibit 1, along with the Gary Kurtz unlawyerly imprecations which he imagines that the exhibit justifies, *not* be stricken from the record, so that they can stand as a testament to Gary Kurtz's recklessness, and to the desperation and impotence behind his attempts to influence the Court.

Indeed, trying to pin the label of "neo-Nazi" on Lubomyr Prytulak presents glaring incongruities which defeat the Gary Kurtz attempt so thoroughly that they render the above exposure of the VNN Hoax almost unnecessary:

- Lubomyr Prytulak is responsible for the Ukrainian Archive web site at www.ukar.org (UKAR) which occupies 94 megabytes of computer memory, and which thus might be expected to contain ample evidence — well, at least one small piece of evidence — of neo-Nazi sympathy. One must assume, then, that Rambam-Kurtz turned to the VNN Hoax for their evidence of neo-Nazi sympathy for the reason that they failed to find any in the 94 megabytes of the Ukrainian Archive. Indeed, what even a cursory glance at UKAR reveals is that Lubomyr Prytulak views Nazism with repugnance.

- If Lubomyr Prytulak openly consorts with VNN participants, then he would have no motive to hide his liking for the group on the pages of UKAR, and yet the Google internal search engine on the UKAR home page turns up not a single mention of either "VNN" or of "vanguardnewsnetwork.com".

- If Lubomyr Prytulak openly consorts with VNN, then an email to him asking whether he was a participant in VNN discussions, and whether he had posted the statement in question to VNN, should have led to his affirmation — and yet neither Gary Kurtz, nor proxies that he could have employed, ever put either of these two questions to Lubomyr Prytulak, which is compatible with the interpretation that Gary Kurtz knew that both Prytulak answers would be in the negative, and which answers would not be serviceable.

- As email postings to VNN are sometimes anonymous or pseudonymous, nothing prevents agents or provocateurs from discrediting the VNN web site by intemperate and irresponsible postings, and nothing prevents Rambam sympathizers or sponsors from attempting to particularly contaminate the page to which the Prytulak statement was posted by filling that page with emails that were particularly deranged or virulent.

A further reflection is that if Kurtz-Rambam are able to offer up such specious evidence as that contained in their VNN Hoax, *when they know that Lubomyr Prytulak is watching and will respond*, then one has to wonder what higher flights of fantasy they might have permitted themselves during the eight months of *ex parte* hearings before Judge James R. Dunn, *which they assume that Lubomyr Prytulak will never see.*

5. Has Lubomyr Prytulak been caught enjoying himself?

Gary Kurtz's great coup (which he parades once on p. 6, twice on p. 15, and once again on p. 16) is his discovery, and exposure to public view, that Lubomyr Prytulak has confessed to enjoying the current litigation. Gary Kurtz does not imagine that the Court evaluates Prytulak arguments and evidence with indifference to whether Prytulak, while writing them, is laughing or crying or grumbling or growling.

However, replacing the word "enjoying" with the word "amusing" is a Gary Kurtz creation, as is the further imputation based on Kurtz's word "amusing" that Prytulak is amusing himself by toying with the court. Rather, the record shows that all of Prytulak's arguments and evidence are serious, responsible, and substantial, while the entire Plaintiff case is sham, frivolous, vexatious, irresponsible, and reckless. It is Gary Kurtz and Steven Rambam who have been toying with California justice, who have been presenting specious arguments and practising fraud on the Court, and if Lubomyr Prytulak derives enjoyment from exposing their folly and from defeating their nefarious schemes, then that is no concern of Gary Kurtz or of the Court. Until Gary Kurtz is able to cite a Code of Civil Procedure section, or common law precedent, dictating which emotions are permitted a litigant and which are forbidden, Gary Kurtz should recognize the unhelpfulness of speculations in that direction.

6. Why does Lubomyr Prytulak discuss the Kurtz-Rambam VNN Hoax?

Lubomyr Prytulak's purpose is not to seek any remedy from the Court concerning the VNN Hoax, as Prytulak's is a special appearance, having as its sole aim the demonstration that the Court lacks personal jurisdiction. Lubomyr Prytulak's purpose in discussing the VNN hoax is, rather, to impeach and discredit the veracity of the Plaintiff as represented by his lawyer, Gary Kurtz, in the eventuality that they do adduce jurisdictional evidence on the upcoming hearing of 25-Nov-2002. As Prytulak has strong reason to believe that any jurisdictional evidence that Gary Kurtz might adduce will be fabricated, Prytulak asks the Court to give such evidence the low weight that it deserves in view of the low credibility of its source. Prytulak's first piece of evidence that Kurtz-Rambam lack credibility is their 39-page Exhibit 1, and its accompanying invective, which occasions awe at Kurtz-Rambam casual regard for truth. The VNN Hoax is exposed here, then, because Prytulak argues the Court's lack of jurisdiction, and asks the court to ascribe lesser weight to Plaintiff evidence to the contrary in view of Plaintiff's low credibility.

7. The relevance of the earlier *Rambam v Prytulak* Case 02E00326

The earlier Rambam v Prytulak Limited-Jurisdiction Case 02E00326 before Judge Barry A. Taylor is highly relevant, as that is where the Kurtz-Rambam case derailed, and from which point it has never been able to get back on track.

Although Gary Kurtz filed Rambam-Complaint-A in the earlier *Rambam v Prytulak* Case 02E00326 on 09-Jan-2002, he did not serve it on Lubomyr Prytulak until 09-Mar-2002, exactly two months later, demonstrating his comfort with a leisurely pace.

What is critical is that Prytulak Motion-to-Quash-A was dated 03-Apr-2002, and was filed by the Court on 08-Apr-2002, one day less than a month, and exactly 30 days, after service of the Rambam-Compaint-A. Thus, the Prytulak Motion-to-Quash-A was timely.

Neither the fact that the Prytulak Motion-to-Quash-A was filed by the Court only as "Correspondence Received," nor the fact that it was not served on Plaintiff, is relevant — the weighty and ubiquitous precedents cited in detail in Prytulak-Reply-D3 (delivered to the Court by FedEx on 07-Nov-2002, but as yet unfiled)

demonstrate that the Court had inherent power and duty to evaluate its own jurisdiction *sua sponte* or *ex mero motu*, and in any case, was obligated to respond even to a suggestion or informal submission that it should evaluate its own jurisdiction. The common law cannot be clearer in its urging that the Court must respond to any suggestion that it evaluate its own jurisdiction *in no matter what form that suggestion arrives*, and such that *it makes no difference how the question comes to the court's attention*.

In Case 02E00326, then, Kurtz-Rambam can be seen to dawdle for allowing two months to elapse between filing and serving on Defendant, and can be faulted for serving Defendant with an incomplete Complaint, and then for not serving a complete complaint over the ensuing almost four months. Lubomyr Prytulak, in turn, did all that was necessary for him to do — which is to submit a timely and unambiguous challenge to the Court's *in personam* jurisdiction, a challenge whose force was overwhelming, as the submission came bound with a copy of *JDO v Superior Court*, 85 Cal Rptr 2d 611 (California 1999), whose reading presented a *prima facie* case that *Rambam v Prytulak* Case 02E00326 was a sham because it was instigated with full awareness that the Court lacked *in personam* jurisdiction over Lubomyr Prytulak.

This earlier and dismissed *Rambam v Prytulak* Case 02E00326 is relevant today because its timely and sufficient Motion-to-Quash-A should not have been lost as completely as if it had never been submitted, which protection from loss is encouraged in the first place by the requirement that the earlier case should have been reclassified, which would have saved and passed along the valid and sufficient Motion-to-Quash-A to the instant, and still pending, *Rambam v Prytulak* Case BC271433, according to CCP §403.010-403.090, and more specifically:

> CCP §403.020. (a) If a plaintiff [...] files an amended complaint or other amended initial pleading that changes the jurisdictional classification from limited to unlimited, the party at the time of filing the pleading shall pay the reclassification fee provided in Section 403.060, and the clerk shall promptly reclassify the case.

The saving of the timely and sufficient Motion-to-Quash-A would have been guaranteed, as mandated below:

> CCP §403.070. (a) An action or proceeding that is reclassified shall be deemed to have been commenced at the time the complaint or petition was initially filed, not at the time of reclassification.
>
> (b) The court shall have and exercise over the reclassified action or proceeding the same authority as if the action or proceeding had been originally commenced as reclassified, **all prior proceedings being saved**.
>
> Bold emphasis added.

Further protecting Motion-to-Quash-A from loss is afforded by California Rules of Court (CRC) 7.3(d-f). That is, the two *Rambam vs Prytulak* Cases 02E00326 and BC271433 are clearly "related" according to the definitions in Court Rule 7.3(f) below, and not just for one or some of the reasons CRC 7.3(f)(1)(a-d) but for all four reasons, and which necessitates both the filing and serving upon all parties of record a Notice of Related Cases:

> **(f) Related Cases.**
>
> (1) Definition. A civil case may be ordered related to other case(s), including Probate and Domestic (Family Law) cases, by the Court when it appears that the cases:
>
> a) Arise from the same or substantially identical transactions, happenings or events; or
>
> b) Require a determination of the same or substantially identical questions of law and/or fact; or
>
> c) Are likely for other good reasons to require substantial duplication of labor if heard by different judges.
>
> d) Are the same or substantially similar to a prior case in the Superior Court that has been dismissed, either with or without prejudice.
>
> (2) Notice. It is the obligation of counsel to file and serve upon all parties of record a Notice of Related Case(s) when the cases are related as defined in paragraph (1) above.
>
> a) This notice must be filed not later than 15 days after assignment of a case or not later than 15 days after such facts become known to counsel.
>
> b) This notice must set forth facts as to why any pending case or case previously disposed, irrespective of date of filing, is related as defined above.

Rambam lawyer Gary Kurtz, defying both the obligation to reclassify and the obligation to file a Notice of Related Cases, views himself as free from encumbrance in commencing Case BC271433 as if the earlier Case 02E00326 had never existed, and pulling the words "optional" and "not required" out of thin air as he needs them, unembarrassed by his inability to cite authority for them:

> Further, defendant argues that plaintiff should have reclassified his complaint, rather than filing a new one. Of course, reclassification is an optional, not a required, procedure. In this case, plaintiff filed a new action instead of attempting to reclassify the first one. Plaintiff decided that was the proper course of action because the damages pleaded in complaint in this case are based on publications and events that occurred after the first action was filed.
>
> p. 7.

Convenient for Gary Kurtz, admittedly, but not in compliance with statute, and with the result that Prytulak's timely and sufficient Motion-to-Quash-A was lost, and with the three-month-overlap of the two cases 02E00326 and BC271433 inviting the supposition that the latter merely continued the former, as the alternative seemed impossible that overlapping suits were being allowed to progress simultaneously when they exposed Defendant to double jeopardy and the Court to the possibility of conflicting decisions. And if it was not unreasonable to infer that what appeared to

be two suits was in reality one, then it was also not unreasonable to infer that the Motion-to-Quash-A that had already been submitted would not need to be re-submitted.

8. Three instances of Gary Kurtz and Steven Rambam dawdling

Three instances of lethargy testify to Plaintiff indolence and inattention:

1. Filing Case 02E00326 on 09-Jan-2002, but not serving it on Defendant until 09-Mar-2002, which has already been alluded to above.

2. Despite Prytulak complaints to both the Court and to Steven Rambam that pages 1 and 3 of Rambam-Complaint-A were missing, Gary Kurtz never got around to serving a complete complaint during the almost four months that the case lasted beyond the point of service on 09-Mar-2002, until it was dismissed 24-Jun-2002.

3. From Court Clerks beginning to help Gary Kurtz fill out a proof of service form that he was having trouble with to the day that he finally got it right and got it filed was one month and two days (22-May-2002 to 24-Jun-2002), as can be verified on the LASC web site Case Summary for Case BC271433. In the meantime, of course, all Court activity froze.

Such Kurtz-Rambam lethargy did much to encourage the view that the Rambam suit was sham, and today undermines their laying of the prolongation of *Rambam v Prytulak* at Defendant's feet:

> Plaintiff has been substantially prejudiced by the delay defendant caused by defaulting. [...] In this case, plaintiff has suffered personal and economic prejudice from defendant's delay. [p. 13]
>
> Even in the worst case scenario, the web page would have been down nearly 5 months earlier than with the default. [p. 14]

4. Gary Kurtz doubts the indubitable

Gary Kurtz questions the existence of any Prytulak Motion-to-Quash-C, and casts doubt on Lubomyr Prytulak's credibility:

> Finally, defendant complains about an August 29, 2002 motion, which was substantially the same as the instant motion, was lost by the Court. The is no proof that he properly attempted to file a motion in August. Even if we assume defendant to be truthful, he still fails to justify the delay between the May 16, 2002 due date to file a motion to quash and the August 29, 2002 alleged attempt to file a motion to quash.
> Errors of grammar and spelling are Gary Kurtz's.

However, a certain "G. Kurtz" did sign in receipt of FedEx delivery at Gary Kurtz's office of that same Motion-to-Quash-C:

Tracking Number 831625250376
Reference Number
Ship Date 08/29/2002
Delivered To Recept/Frnt desk
Delivery Location WOODLAND HILLS, ENCINO CA
Delivery Date/Time 08/30/2002 09:43
Signed For By G.KURTZ
Service Type Priority Box
Can be verified in greater detail at: http://www.ukar.org/temp/fedex/fx020830a.htm

Also, a certain "P. Yap" did sign in receipt of FedEx delivery at the Los Angeles Superior Court of that same Motion-to-Quash-C:

Tracking Number 831625250387
Reference Number
Ship Date 08/29/2002
Delivered To Mailroom
Delivery Location LOS ANGELES CA
Delivery Date/Time 08/30/2002 09:05
Signed For By P.YAP
Service Type Priority Box
Can be verified in greater detail at: http://www.ukar.org/temp/fedex/fx020830b.htm

And Gary Kurtz himself admits to having received Motion-to-Quash-C in his submission titled OBJECTION TO DOCUMENT SERVED BY DEFENDANT PRYTULAK, dated 03-Sep-2002, and which starts with words indicating that what Gary Kurtz had been examining in the days between 30-Aug-2002 when Motion-to-Quash-C was delivered to him, and 03-Sep-2002 when he dated and mailed his reply, was in fact a Prytulak motion to quash:

> Plaintiff objects to the long and rambling document, purporting to be a motion to quash for lack of jurisdiction, which was served and presumably filed by defendant Prytulak, on the following grounds.

Furthermore, Court representative Katina (at 213-974-5173) admits to the Court having received material from Lubomyr Prytulak on 30-Aug-2002, although she confesses as well to not being able to find that material.

> A very great deal of time could be saved, and further erosion of Plaintiff credibility prevented, if Gary Kurtz fortified and reinvigorated his feeble respect for evidence and for truth.

It must be cautioned that Lubomyr Prytulak asks the Court for no remedy in response to the above Kurtz-Rambam misrepresentation, but describes it for the sole purpose of apprising the Court of Kurtz-Rambam unreliability in case the duo should use the 25-Nov-2002 proceeding to present surprise testimony addressing the question of jurisdiction.

5. Should *pro per* (*in propria persona*), or *pro se*, litigants get special consideration?

Gary Kurtz says that *pro per* litigants do not deserve special consideration, and in support cites *Bistawros v Greenberg*, 189 Cal App 3d 189 (1987) and *Nelson v*

Grant, 125 Cal App 3d 623 (1981). Having wrestled to the ground the straw man which dared to argue that the *pro per* litigant should get special consideration, Gary Kurtz fails to notice that in the real world of *Rambam v Prytulak*, Lubomyr Prytulak does not ask for special consideration. To repeat — Lubomyr Prytulak only asks for the *same* consideration that he saw Gary Kurtz and others receiving, and that is guaranteed him by law. Gary Kurtz restraining himself from attributing to Lubomyr Prytulak straw-man positions that Lubomyr Prytulak never adopts would have brought a blessed reduction in the volume of paper that this utterly simple case has piled up.

What possible relevance does Gary Kurtz imagine that *Nelson v Grant*, for example, has, when the opinion describes the trial court pointing something out to a *pro per* litigant "on at least three separate occasions," and with the *pro per* litigant taking no heed, whereas Lubomyr Prytulak very differently complains of the disappearance of six litigant submissions, and of the Court offering not a whisper of feedback as to what was their fate, or what amendment might have protected them from disappearance? Reports of litigants who refuse to observe a procedure indicated by the Court have no application to *Rambam v Prytulak* in which the Court refuses to indicate to Lubomyr Prytulak what procedure he should observe.

On top of that, Gary Kurtz's citations feature extreme misconduct, such as "chronic procrastination and irresponsibility," which the Court is correct to refuse to tolerate (just as Prytulak has prayed that the Court would refuse to tolerate from the Plaintiff direction in *Rambam v Prytulak*). However, when the question in *Rambam v Prytulak* might at most be only one of whether the *pro per* defendant meets the minutiae of court procedure, then Gary Kurtz needs to recognize that the *pro per* litigant can indeed expect a relaxation of standards, as virtually every federal circuit hands down decisions generously proclaiming that *pro per* submissions should be construed liberally and held to less stringent standards than ones submitted by lawyers. Appellate courts go so far as to direct that if courts can reasonably read submissions, they should do so despite failure to cite proper legal authority, confusion of legal theories, poor syntax and sentence construction, or litigant's unfamiliarity with rule requirements. When interpreting *pro se* papers, the Court should use common sense to determine what relief the party desires. Defendants have the right to submit *in propria persona* briefs on appeal, even though they may be inartfully drawn, so long as the court can reasonably read and understand them. Courts will go to particular pains to protect *in propria persona* litigants against consequences of technical errors if injustice would otherwise result.

Neither time, nor the peripheral significance of the topic, allow for direct quoting from the decisions below in support of such views, though if Gary Kurtz continues to repeat as he has been doing that *pro per* Prytulak must comply with the minutiae of Court procedure, such detailed quoting will be offered in future submissions.

- *Boag v MacDougall*, 454 US 364, 70 LEd2d 551 (1982)
- *Chase v Crisp*, 523 F2d 595 at 597 (1975)
- *Conley v Gibson*, 355 US 41, at 45-46, 2 LEd2d 80 (1957)
- *Curtis v Illinois*, 512 F2d 717 at 721 (1975)
- *Estelle v Gamble*, 429 US 97, 50 LEd2d 251 (1976)
- *Haines v Kerner*, 404 US 519, 30 LEd2d 652 (1972)
- *Ham v North Carolina*, 471 F2d 406 at 407 (1973)
- *Harriston v Alabama*, 465 F2d 675 at 678 n5 (1972)
- *McDowell v Delaware State Police*, 88 F3d 188 at 189 (1996)
- *Montgomery v Briely*, 414 F2d 552 (1969)
- *Pembrook v Wilson*, 370 F2d 37 at 40 (1966)

- *Poling v K Hovnanian Enterprises*, 99 FSupp2d 502 at 506-507 (2000)
- *Price v Johnson*, 334 US 266 at 292 (1948)
- *SEC v Elliott*, 953 F2d 1560 at 1582 (1992)
- *Then v INS*, 58 FSupp2d 422 at 429 (1999)
- *Turrell v Perini*, 414 F2d 1231 at 1233 (1969)
- *US v Day*, 969 F2d 39 at 42 (1992)
- *US v Miller*, 197 F3d 644 at 648 (1999)
- *US v Sanchez*, 88 F3d 1243 (1996)
- *Vega v Johnson*, 149 F3d 354 (1998)
- *Whittaker v Overholster*, 299 F2d 447 at 448 (1962)

To end with a demonstration of how insubstantial and immaterial are Gary Kurtz's demands for compliance with procedural minutiae is his continuing regurgitation of the following Prytulak defect:

> Defaulting defendant's document violates Rules of Court, Rule 311(b) because it fails to designate a date, time and location of a hearing.
> p. 3.

Howevever, both Prytulak Motion-to-Quash-C and Motion-to-Quash-D have sections — visible in the table of contents, titled *Motion Date* — which do specify dates, although to little effect, as in the case of Motion-to-Quash-D which was filed, the Court set its own date. As to setting the time, I wonder if Gary Kurtz really imagines that Lubomyr Prytulak setting an hour of the day at which the proceeding is to be conducted would be helpful to the Court, or whether the Court would prefer to set its own hour of the day so as to harmonize with timetabling constraints known to the Court, but not to a litigant in Canada? And as for designating the place of hearing, as all hearings to date in connection with case BC271433 have been held at 111 North Hill Street, then it may be assumed that 111 North Hill Street will continue to be where proceedings are held. If Gary Kurtz means that Lubomyr Prytulak should have specified a room at the 111 North Hill Street address in which proceedings were to be held, then surely this would meet with the objection that, somewhat as before, Prytulak's selection would be unhelpful to the Court, as the choice must depend on timetabling constraints known only to the Court.

22. Gary Kurtz confuses conjecture with proof

How tiresome it grows to see Gary Kurtz boldly asserting things that he has no knowledge of, in the face of evidence to the contrary that can be had following a few minutes' labor. For example, Gary Kurtz informs the court, without disclosing how he knows, that:

> Of course defendant had access to internet research services to research California law from Canada.
> p. 6.

However, a visit to the Westlaw Trial Subscription sign-up page at register.westgroup.com/freetrial/default.asp?EC=IAgree&page=1 would have shown Gary Kurtz that a prospective subscriber must give his State of residence, his U.S. zip code, and his U.S. Jurisdiction. By way of further investigation, an email to Westlaw would confirm that its services are denied access from Canada. In fact, Lubomyr Prytulak is shut out of Westlaw searches, just as he is shut out of access to the Los Angeles Superior Court, which puts him at an immense disadvantage in both departments.

Lubomyr Prytulak, therefore, objects to Gary Kurtz's uninhibited and undisciplined verbalization whose refutation puts Defendant to a great deal of needless writing, and puts the Court to a great deal of needless reading, of which the present instance is only one example out of the many available. It must be emphasized that here as in so many other places, Gary Kurtz's confident assertion is dead wrong, and that Lubomyr Prytulak has no access, either direct or through others, to any law search service, whether Westlaw or other, whether American or Canadian.

It must be cautioned that Lubomyr Prytulak asks the Court for no remedy in response to the above Gary Kurtz error, but describes it for the sole purpose of apprising the Court of Kurtz-Rambam unreliability in case the duo should use the 25-Nov-2002 proceeding to present surprise testimony addressing the question of jurisdiction.

STEVEN RAMBAM LACKS SUBSTANTIAL, CONTINUOUS, AND SYSTEMATIC TIES TO CALIFORNIA

In view of the wholesale deception and fraud practiced by Gary Kurtz and Steven Rambam, Lubomyr Prytulak anticipates that the reason that the hearing originally scheduled for 12-Nov-2002 was continued to 25-Nov-2002 was to allow time for Kurtz-Rambam to manufacture evidence in support of the Court taking personal jurisdiction over Lubomyr Prytulak, and the reason that Steven Rambam insists on being present at that hearing is that he will present that evidence -- this without Lubomyr Prytulak having been apprised either that any witness will appear or what that witness will say. Accordingly, Lubomyr Prytulak takes the following two steps to protect his interests -- first, (Prytulak's non-existent ties to California having already been fully established in Motion-to-Quash-D), Lubomyr Prytulak underlines below Steven Rambam's insufficient ties to California as well; and second, in anticipation of Rambam testimony concerning jurisdiction on 25-Nov-2002, Lubomyr Prytulak presents the Court with reason to assign that evidence low weight.

1. Pallorium Web Site Registration

A Verisign WhoIs search for the the authors of the Pallorium web site turns up Steven Rambam at the usual New York address and telephone number, and turns up no California addresses or telephone numbers:

Registrant:
Pallorium, Inc. (PALLORIUM-DOM)
P. O. Box 155 - Midwood Station
Brooklyn, NY 11230
US

Domain Name: PALLORIUM.COM

Administrative Contact:
Rambam, Steven (SR4774)
rambam@PALLORIUM.COM Pallorium, Inc.
P. O. Box 155 - Midwood Station
Brooklyn, NY 11230
US
212.969.0286
www.netsol.com/cgi-bin/whois/whois?STRING=pallorium.com&SearchType=do

2. Rambam's Own Promotional Material

As advertising and promotion is readily inflatable and subject to minimal policing for accuracy, if Steven Rambam's advertising and promotion featured California, this would not constitute proof of his substantial presence in California; however, the failure of his advertising and promotion to place Steven Rambam in California is indicative that he lacks substantial presence there. All Internet quotes are as of 15-Nov-2002:

i. Most significantly, the National Association of Investigative Specialists (or NAIS, of which Steven Rambam is a lifetime member, and with which he is closely associated) lists membership by State, and on its page titled *CALIFORNIA PRIVATE INVESTIGATORS NAIS MEMBERSHIP DIRECTORY* does not contain anywhere on it either "Rambam" or "Pallorium."
- www.pimall.com/nais/d-ca.html

ii. The home page of the Pallorium web site continues to list only the one New York address as was seen above, and only the one New York telephone number, and only the one New York Fax number. No California address or telephone numbers are listed:

> P. O. BOX 155 - MIDWOOD STATION - BROOKLYN,
> NEW YORK 11230
> USA TELEPHONE: (001) 212-969-0286 - TELECOPIER:
> (212) 858-5720
- www.pallorium.com *Pallorium* web site home page

iii. Deeper within the Pallorium web site can be found a page titled *Welcome NAIS Member* which repeats Steven Rambam's usual New York address and telephone, and alleges that Steven Rambam works just about everywhere, but not so much in California as to be worth mentioning:

> Pallorium, Inc. is a licensed, bonded and insured Investigative Agency, with offices and affiliates worldwide.
> Pallorium's investigators have conducted investigations in more than forty-five (45) countries, and in nearly every U.S. State and Canadian province.
- www.pallorium.com/naisidx.html 15-Nov-2002

iv. A page titled *About Pallorium* on the *National Association of Investigative Specialists* web site places Steven Rambam just about everywhere, but not particularly in California:

> Pallorium, Inc. is a licensed Investigative Agency, with offices and affiliates worldwide. [...] Pallorium's investigators have conducted investigations in fifty-one (51) countries and territories, and in nearly every U.S. State and Canadian province.
> • www.pallorium.com/homeqifs/News.html on 15-Nov-2002.

v. The h2k2.net web site again catches Steven Rambam claiming to work just about everywhere, but not particularly in California:

> Steven Rambam is a licensed private investigator and the owner and CEO of Pallorium, Inc., an investigative agency with offices and affiliates throughout the world. During the past 21 years, he has conducted and coordinated investigations in more than 50 countries and in nearly every U.S. state and Canadian province.
> • www.h2k2.net/display_grid.khtml?who=56 on 15-Nov-2002.

vi. The following further claim of business bases fails to specify California, and can be found repeated word-for-word at four online locations:

> Offices in New York City, NY ; San Antonio (area) TX ; Haifa, Israel; Toronto (area) Canada; and Hong Kong. Full Affiliates in Tegucigalpa, Honduras and Guatemala City, Guatamala.
> • www.pimall.com/nais/dir.four.html *PI Mall* web site, page titled *International NAIS Members*, under the subheading *Central America* Furthermore, the top of the page carries a Pallorium advertisement which claims "INVESTIGATIONS IN 45+ COUNTRIES," but without mentioning California.
> • www.pimall.com/nais/dir.four-b.html *PI Mall* web site, page titled *Page 2 of International Investigators*, once under the subheading *Hong Kong*, and again under the subheading *Israel*.
> • www.auskunftei.com/Asien.htm *Auskunftei.com* web site, on the Asia page, under the subheading *Hong Kong*.

7. Rambam's Own Testimony Submitted to the Instant Court

Two conclusions are suggested by Plaintiff Rambam's Exhibit 1 of his 18-Jul-2002 document titled "Summary of Case for Entry of Default Judgment by Court Upon Declarations":

- Plaintiff Rambam admits that his professional status in California is lower than in Texas, New York, and Louisiana — in the former he is "licensed" whereas in California he is only "legally permitted to act as an investigator" — an allegation which is neither clarified nor substantiated within Exhibit 1.

- The single strongest tie to California that Plaintiff Rambam alleges is that he once testified as an expert witness before the Los Angeles Superior Court.

> I am a private investigator who is licensed in the States of Texas, New York, Louisiana, as well as other jurisdictions. I am also legally permitted to act as an investigator in the State of California. I qualified as an expert witness in the investigation of sophisticated financial fraud schemes in a Los Angeles Superior Court matter Attached hereto as Exhibit "1" is a true and correct copy of selected pages from a transcript of my testimony during that trial.
> paragraph at the top of p. 2 the following

Further reading of this same Exhibit 1 shows Rambam alleging that he is a licensed private investigator in New York, Texas, and Louisiana, and alleging further that he is a "partner" in investigative firms in Canada, Hong Kong, and Israel (pp. 7-8). Rambam does not allege, let alone prove, that California is a place in which he does any business at all, let alone that it is his primary place of business. Furthermore, in alleging cooperative efforts in which he has been involved (p. 10), Rambam mentions New York, Texas, Israel, United Kingdom, Germany, Hong Kong, Thailand — but not California. Los Angeles, California is finally alleged, but not proven, as a place in which Rambam cooperated with the Secret Service, though in what capacity, and with what contribution, and at what if any remuneration, is neither alleged nor proven:

> **THE WITNESS:** IN FACT, ONE OF THE CASES I DID WITH THE SECRET SERVICE WAS HERE IN LOS ANGELES AND RESULTED IN ROB NITE GOING TO PRISON.
> *Karifa Capital Corp., Ltd. v Silbert*, Los Angeles Superior Court, No. BC154006, Hon. Emilie H. Elias, J., Reporter's Transcript of Proceedings, Thursday, January 18, 2001, p. 11. The witness is Steven Rambam.

3. California Court of Appeal Decision of 1999

The California Court of Appeal, Second District, Division 7, Lillie, P.J., reviewing the evidence concerning Steven Rambam's coordinates, concluded:

> From 1988 to the present, Rambam was the president of a licensed private investigative agency, Pallorium, Inc., located in Brooklyn, New York [...]. [at 614]

> Rambam went to great lengths to state that New York is not his "full time" residence. Yet, Rambam did not identify any other place of residence; he stated that he traveled most of the time, including Europe, Israel, and the far east; as to California, he stated only that he spends "considerable professional time" in California. [at 619-620]

> There is insufficient basis in this record to conclude that California is Rambam's principal place of business, or that the alleged defamation was targeted at California or would cause the brunt of the harm in California. [at 620]
> • *Jewish Defense Organization v Superior Court*, 85 Cal Rptr 2d 611 (California 1999)

STEVEN RAMBAM HAS LOW CREDIBILITY

Examining only the larger and more palpable reasons for doubting Steven Rambam's

credibility produces the following list of deceptions, frauds, and hoaxes in which Steven Rambam has been intimately involved.

1. The VNN Hoax

Tagging Lubomyr Prytulak as a "neo-Nazi" participant in VNN discussions is a reprehensible, though transparent, fraud, as has been documented above. Perpetrated outside court, it would be actionable.

2. Stealing Mordechai Motty Levi's identity

When earlier faced with a Los Angeles Superior Court lack of jurisdiction over Mordechai Levy of New York, Gary Kurtz and Steven Rambam attempted to practise fraud on the Court by equating the New York Mordechai Levy with Mordechai Motty Levy who ran an Arco service station in Anaheim, California. This fraud is documented in Lubomyr Prytulak 22-Jul-2002 letter to Steven Rambam titled *Smart to lie to the LA Superior Court?* (see Exhibit 1) which was posted on the Internet and with a hard-copy delivered to Steven Rambam. As Steven Rambam has allowed this accusation to stand unchallenged for four months, it may be taken that he is able to offer neither explanation or defense.

3. The 25 Top Investigators of the Century Hoax

In Plaintiff Document dated 18-Jul-2002 and titled SUMMARY OF CASE FOR ENTRY OF DEFAULT JUDGMENT BY COURT UPON DECLARATIONS, Exhibit 1 consists of an excerpt from Steven Rambam testimony in an unrelated LASC case in which Steven Rambam takes credit for having been honored as one of the twenty-five best investigators of the century. Research by Lubomyr Prytulak discovered that this honor was a cheap publicity stunt, as is documented by Lubomyr Prytulak 06-Aug-2002 letter to Steven Rambam titled *Top 25 Investigators of the Century Hoax*, as can be verified in Exhibit 2.

4. The Fifty-Confessions Hoax

Lubomyr Prytulak most fully documented the Fifty-Confessions Hoax (in which Steven Rambam played a leading role) in his letter of 04-Jul-2002 to Mike Wallace of 60 Minutes, titled *Mike Wallace's Dark Secret*, which can be read in Exhibit 3. Almost five months later, neither Mike Wallace, nor Steven Rambam, nor any of the others implicated, has pointed out any inaccuracy in the accusations, or offered any explanation or defense.

5. Steven Rambam has a bad reputation

Steven Rambam is spoken of, by men of recognized integrity and high professional standing, particularly by recently-deceased author Robert I. Friedman, as suffering from bad reputation and low credibility. Among the particulars which constitute Steven Rambam's bad reputation is his having been convicted of infamous crimes involving moral turpitude, and of having served time in federal prison for them, the infamous crimes centering on terrorist bombings conducted upon the soil of the United States. Friedman's indictment of Steven Rambam has been on public display for years, with Steven Rambam offering no rebuttal to it, and with Rambam not suing Friedman for defamation. Statements within this indictment have been

sampled in the above-cited letter to Mike Wallace, and need not be repeated here, though their gravity is reflected in their including the descriptors "violence prone" and "psychopath." In the case of passage of time demonstrating reformation, the older of these accusations might best be forgotten, both by the public and by the courts. In Rambam's case, however, the unrelieved series of hoaxes and frauds that followed right up until this day, and that first brought Steven Rambam to Lubomyr Prytulak's attention as an individual about whom the public should be warned, testify to a character whose deviance began early, and whose reformation has yet to begin.

In view of the shortness of time, authority for impeachment of Steven Rambam's credibility is restricted to the following three decisions lying at hand, which however can be greatly expanded should need arise:

> The general bad reputation of a witness for truth and veracity may be shown for impeaching purposes.
> *Halligan v Lone Tree Farmers Exchange*, 300 NW 551 at 554 (Iowa 1941)

> This section is declaratory of the common law. [Citations] And, while it excludes evidence of particular wrongful acts, it expressly provides that, for the purposes of impeachment, it may be shown that the witness has been convicted of a crime. This may be shown either by an examination of the witness himself or the record of a judgment.
> *State v Ede*, 117 P2d 235 at 236 (Oregon 1941)

> It is entirely proper, either by way of introduction or cross-examination, to identify a witness and to inquire into his residence, antecedents, social connections and occupation, particularly as they reflect his credibility either for good or bad.
> *Hungate v Hudson*, 185 SW2d 646 at 649 (Missouri 1945)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date 21-Nov-2002

Lubomyr Prytulak

PROOF OF SERVICE

of the document titled
DEFENDANT PRYTULAK ANSWER TO
"PLAINTIFF'S OPPOSITION TO MOTION TO
SET ASIDE DEFALT; MEMORANDUM OF
POINTS AND AUTHORITIES"
which was filed 12-Nov-2002 Los Angeles Superior Court
21 November 2002

A copy of the FedEx International Air Waybill is tendered as conclusive and indisputable proof of service of the above document:

This Waybill is a demonstration that FedEx corporation confirms that

1. a shipment has been deposited with FedEx,
2. the date of deposit of that shipment 25-Sep-2002,
3. the sender's name and address is
   [Address]
4. the recipient's name and address is
   Gary Kurtz, Esq.
   20335 Ventura Boulevard, Suite 200
   Woodland Hills, California
   USA 91436
5. and the tracking number is 8368 7366 3505

Furthermore, entering the above tracking number at the FedEx web site at

www.fedex.com/us/

provides the following further confirmatory information:

1. the exact time that the shipment passed through each stage of its journey from its place of origin to its destination,
2. the time to the nearest minute of arrival of the shipment at its destination,
3. the printed name of the person signing for receipt of the shipment,
4. the signature of the person signing for receipt of the shipment.

As the above method of delivery affords tighter verification than is available by "mail," CCP §1013a describing "proof of service by mail" is considered inapplicable, and CCP §1016.6 (d) is offered as justification for the instant Proof of Service:

> CCP §1016.6 (d) The copy of the notice or other paper served by Express Mail or another means of delivery providing for overnight delivery pursuant to this chapter shall bear a notation of the date and place of deposit or be accompanied by an unsigned copy of the affidavit or certificate of deposit.

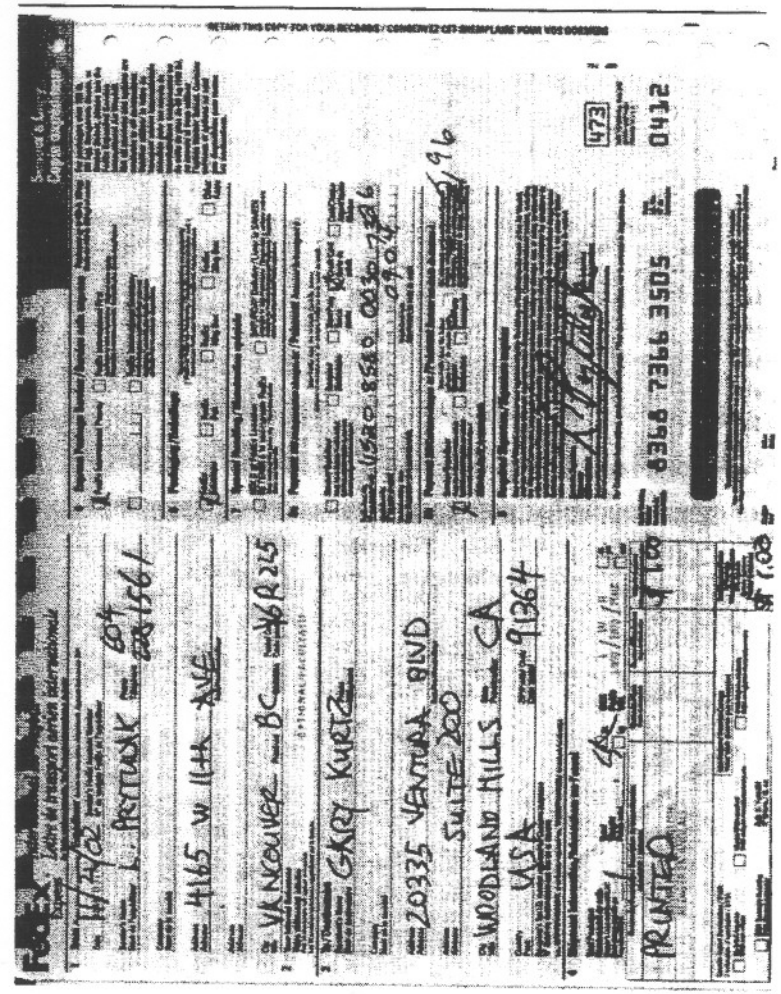
Also supportive of the instant Proof of Service is California Civil Code Maxim of Jurisprudence 3528, "The law respects form less than substance."

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 21 November 2002

Name: Lubomyr Prytulak

Signature:



ATTORNEY OR PARTY WITHOUT ATTORNEY *(Name and address)*: *TELEPHONE NO.*:	***FOR COURT USE ONLY***
Defendant without attorney is: Lubomyr Prytulak [Telephone] [Address]	
NAME OF COURT: Los Angeles Superior Court 111 North Hill Street Los Angeles, California USA 90012	
PLAINTIFF/PETITIONER: Steven Rambam DEFENDANT/RESPONDENT: Lubomyr Prytulak	
DECLARATION	CASE NUMBER BC271433

I, Lubomyr Prytulak, the defendant named in Case No. BC271433, declare the following:

1. **Exhibit 1** is a 21-Nov-2002 copy of the Lubomyr Prytulak 22-Jul-2002 letter to Steven Rambam titled *Smart to lie to the LA Superior Court?* delivered by mail to Steven Rambam, and also posted on the Internet at www.ukar.org/rambam03.html

2. **Exhibit 2** is a 21-Nov-2002 copy of the Lubomyr Prytulak 06-Aug-2002 letter to Steven Rambam titled *Top 25 Investigators of the Century Hoax* delivered by mail to Steven Rambam, and also posted on the Internet at www.ukar.org/rambam04.html

3. **Exhibit 3** is a 21-Nov-2002 copy of the Lubomyr Prytulak 04-Jul-2002 letter to Mike Wallace titled *Mike Wallace's Dark Secret* delivered by mail to Mike Wallace, and also posted on the Internet at www.ukar.org/wallac05.html

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 21 November 2002

Lubomyr PRYTULAK
Respondent/Defendant

HOME DISINFORMATION PEOPLE RAMBAM BC271433 FEDEX to Kurtz FEDEX to Court