

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER  
DEPARTMENT C20

MERI NISHIUCHI, IN THE RIGHT OF )  
AND FOR THE BENEFIT OF ATIA CO., )  
LP, )

PLAINTIFF, )

VS. )

CASE NO. 2013-00661506

PATRICIA TING (AKA PATRICIA )  
TING LEE), AN INDIVIDUAL; )  
MICHAEL SEUNG HOON LEE, AN )  
INDIVIDUAL, DIVINE CREATIONS )  
LLC, A CALIFORNIA LIMITED )  
LIABILITY COMPANY, KANG S. CHEN, )  
AN INDIVIDUAL, AND DOES 1 - 10, )  
INCLUSIVE, )

DEFENDANTS, )

AND )

ATIA CO. LP, A LIMITED )  
PARTNERSHIP, )

NOMINAL DEFENDANT. )  
\_\_\_\_\_ )

HONORABLE DAVID F. CHAFFEE, JUDGE PRESIDING

REPORTER'S TRANSCRIPT

NOVEMBER 19, 2014

APPEARANCES OF COUNSEL:

(ON FOLLOWING PAGE.)

LYNN O. PETERSON, CCRR, CSR NO. 7706  
OFFICIAL COURT REPORTER

APPEARANCES OF COUNSEL:

FOR THE PLAINTIFF:

NAKASE LAW FIRM

BY: BRAD NAKASE, ESQ.

AND

BY: WILLIAM A. COHAN, ESQ.

FOR THE DEFENDANT:

BURNS & MOSS

BY: GEORGE S. BURNS, ESQ.

BY: VICTORIA E. MOSS, ESQ.

CHRONOLOGICAL WITNESS INDEX

WITNESSES: \_\_\_\_\_ DIRECT CROSS REDIRECT RECROSS VOIR  
DIRE

(NONE)

ALPHABETICAL WITNESS INDEX

WITNESSES: \_\_\_\_\_ DIRECT CROSS REDIRECT RECROSS DIRE VOIR

(NONE)

EXHIBIT INDEX

<u>JOINT</u>	<u>FOR</u>	<u>IN</u>	<u>REFUSED</u>
	<u>IDENTIFICATION</u>	<u>EVIDENCE</u>	

(NONE)

1 SANTA ANA, CALIFORNIA - WEDNESDAY, NOVEMBER 19, 2014

2 MORNING SESSION

3 -000-

4 (THE FOLLOWING PROCEEDINGS WERE HAD IN  
5 OPEN COURT:)

6 THE COURT: SORRY FOR THE DELAY. NOTHING LIKE BUILDING  
7 SUSPENSE, I SUPPOSE. SO WE RETURN ON THE RECORD TO  
8 NISHIUCHI VERSUS TING. AND, ACTUALLY, I WOULD TURN FIRST TO  
9 PLAINTIFF'S ATTORNEYS.

10 THERE WAS A PARTY DEFENDANT IN THIS CASE NAMED  
11 KANG S. CHEN. I HAVE HEARD NO EVIDENCE THAT I UNDERSTAND  
12 IMPLICATES MR. CHEN IN ANY OF THIS.

13 SO WHAT'S THE STATUS OF KANG CHEN?

14 MR. NAKASE: HE WAS DISMISSED FROM THE CASE,  
15 YOUR HONOR.

16 THE COURT: GOOD TO KNOW. THANK YOU.

17 ALL RIGHT. SO AT THE OUTSET, THE COURT, ON ITS OWN  
18 MOTION, WILL TAKE JUDICIAL NOTICE OF THE ENTIRE COURT FILE  
19 IN THE CASE ENTITLED: *NISHIUCHI VERSUS ATIA CO.*, CASE  
20 NUMBER 30-2012-00542358. IN PARTICULAR, I WOULD OBSERVE  
21 THAT THE COMPLAINT IN THAT CASE WAS FILED ON FEBRUARY 2,  
22 2012. A NOTICE AND ACKNOWLEDGMENT OF RECEIPT WAS FILED ON  
23 MAY 7, 2012. IT WAS SIGNED AND DATED FOR DARWIN AND  
24 KEUI-MEI TING AND ATIA CO., LP ON MARCH 21, 2012. AN ANSWER  
25 OR GENERAL DENIAL FOR THOSE DEFENDANTS WAS FILED ON APRIL  
26 20, 2012.

1           DARWIN TING, AS WE KNOW FROM THE EVIDENCE IN THIS  
2 CASE, PURPORTED TO GIVE HIS DAUGHTER, PATRICIA TING,  
3 \$2 MILLION. EXHIBIT 47, PAGE 7 SHOWS IN PARTICULAR THAT  
4 MR. TING WIRED \$500,000 TO PATRICIA TING AND MICHAEL LEE'S  
5 BANK ACCOUNT ON MARCH 5, 2012. AND THAT WAS \$500,100 ON  
6 MARCH 5, 2012. AND AN ADDITIONAL \$500,000 WAS WIRED ON  
7 MARCH 12, 2012.

8           IN ADDITION, AS WE SEE FROM EXHIBIT 49, ON MARCH  
9 27, 2012 MR. TING WIRED \$1 MILLION TO CHANG CHIH  
10 INTERNATIONAL INVESTMENTS, WHICH OF COURSE IS THE INVESTMENT  
11 NAME, IF YOU WILL, OR THE OPERATING NAME FOR A PARTICULAR  
12 PLAYER IN THIS WHOLE MATTER, ANDY ZHANG.

13           THE MONEY, WHICH OF COURSE TOTALS \$2,000,100, WAS  
14 ALL USED FOR THE PURCHASE OF SEVERAL PROPERTIES ALL IN THE  
15 NAME OF PATRICIA TING AND HER SPOUSE, MICHAEL LEE. THE  
16 PASADENA PROPERTIES, THE SUBJECT OF THE PURCHASE, GENERALLY  
17 WERE DESCRIBED IN THIS TRIAL AS THE CATALINA AND THE DEL MAR  
18 PROPERTIES.

19           THE TRIAL OF THE *NISHIUCHI VERSUS ATIA CO.* CASE WAS  
20 HELD BEFORE JUDGE DEREK HUNT. AN AMENDED JUDGMENT AGAINST  
21 DARWIN AND KEUI-MEI TING AND THEIR VARIOUS FAMILY TRUSTS WAS  
22 FILED ON APRIL 23, 2014, LONG AFTER MUCH OF THE ACTIVITIES  
23 THAT ARE AT ISSUE IN THIS CASE OCCURRED. THE JUDGMENT  
24 ITSELF AWARDED DAMAGES AND INTEREST AGAINST THE DEFENDANTS  
25 THAT I'VE JUST LISTED FOR AN AMOUNT IN EXCESS OF \$9 MILLION.

26           PRIOR TO THAT DATE, ON AUGUST 15, 2013, JUDGE HUNT

1 ISSUED HIS FIRST MINUTE ORDER REGARDING PHASE 1 REGARDING  
2 THE LIABILITY FOR BREACH OF FIDUCIARY DUTY OF DEFENDANT,  
3 MR. TING IN PARTICULAR, AND FOUND AGAINST THE DEFENDANTS IN  
4 THAT MINUTE ORDER.

5 ON JANUARY 13, 2014, JUDGE HUNT ISSUED HIS SECOND  
6 MINUTE ORDER REGARDING PHASE 2 OF THAT TRIAL REGARDING THE  
7 AMOUNTS TO BE DISGORGED BACK TO THE LIMITED PARTNERSHIP,  
8 AND, DIRECTED DISGORGEMENT BY THE TINGS OF MILLIONS OF  
9 DOLLARS.

10 WE KNOW THAT THE SALE OF THE CATALINA AND DEL MAR  
11 PROPERTIES OCCURRED SHORTLY AFTER THE DATE OF ISSUANCE OF  
12 THE MINUTE ORDER OF JUDGE HUNT, AUGUST 15, 2013, OF PHASE 1  
13 OF THAT TRIAL. AND IN PARTICULAR WE KNOW THAT THE CATALINA  
14 DEEDS WERE SIGNED ON AUGUST 26. TWO WERE RECORDED ON AUGUST  
15 30. ONE WAS RECORDED ON SEPTEMBER 5. AS TO THE DEL MAR  
16 PROPERTY, THE DEED WAS SIGNED ON SEPTEMBER 7, 2013, AND IT  
17 WAS RECORDED ON SEPTEMBER 13, 2013.

18 WE LEARNED FROM PATRICIA TING THAT SUBSEQUENT TO  
19 THESE SALES SHE GAVE \$980,000 TO HER FATHER, WHO, BY THAT  
20 TIME, WAS LIVING IN TAIWAN. AND WE KNOW THAT ON MARCH 25,  
21 2015 MS. TING ALSO SENT HIM ANOTHER \$70,000, FOR A TOTAL OF  
22 \$1,050,000.

23 WE TURN FOR A MOMENT TO THE BAKERY, EAT CAKE. THE  
24 BAKERY, OF COURSE, WAS ESTABLISHED PURSUANT TO A LEASE AT  
25 THE CANYON POINT MARKETPLACE SHOPPING CENTER. THAT LEASE,  
26 SHOWN AS EXHIBIT 19, REQUIRED THE LESSEE TO PAY FOR THE



1 TENANT IMPROVEMENTS. THE LESSEE EFFECTIVELY WAS  
2 MICHAEL LEE, THE NAME ON THE LEASE AGREEMENT. WE COULD ALSO  
3 ASCRIBE IT TO THE MASTER ENTITY FOR EAT CAKE, THE ENTITY  
4 KNOWN AS DIVINE CREATIONS.

5 WE FURTHER KNOW THAT THE CHECKS PRODUCED IN THIS  
6 TRIAL SHOW THAT ATIA, OR SOME SUBSIDIARY OF THAT ENTITY,  
7 PAID FOR THE TENANT IMPROVEMENTS, ALL, ULTIMATELY, FOR THE  
8 BENEFIT OF THE BAKERY OWNERS AND OPERATORS, THOSE INCLUDING,  
9 ACCORDING TO THE RECORDS, DARWIN TING, PATRICIA TING,  
10 MICHAEL LEE.

11 WHILE THE EVIDENCE IN THIS TRIAL SUGGESTED THAT  
12 SOME LESSOR RENOVATION MIGHT HAVE BEEN NEEDED PRIOR TO THE  
13 INSTALLATION OF TENANT IMPROVEMENTS, THE ONLY EVIDENCE  
14 PRESENTED IN THIS TRIAL IS THAT ALL SUMS WERE APPLIED TO AND  
15 EXPENDED FOR TENANT IMPROVEMENTS, TOTALING \$446,555.

16 THE DEFENSE IN THIS CASE HAS PORTRAYED THE  
17 SIGNIFICANT PLAYERS IN THIS ACTION, THE TINGS, FATHER AND  
18 DAUGHTER, AS A LOVING, RICH, GENEROUS FATHER JUST DOING SOME  
19 ESTATE PLANNING, AND A LOVING DAUGHTER HAPPILY ACCEPTING THE  
20 GENEROSITY OF HER FATHER. AND I HAVE NO DOUBT THAT THERE IS  
21 SOME TRUTH IN THESE CHARACTERIZATIONS. THE PROBLEM IN THIS  
22 CASE IS THAT THE EVIDENCE VERY CLEARLY REVEALS THAT DARWIN  
23 TING WAS FUNDING HIS ESTATE PLAN WITH MONEY THAT BELONGED TO  
24 ATIA AND THE PARTNERSHIP THAT OPERATED ATIA AND NOT OUT OF  
25 HIS OWN POCKET.

26 THE COURT DOES NOT SUBSCRIBE TO THE, QUOTE,

1 "COINCIDENCE" END QUOTE, THEORY AS DRIVING ANY OF THE  
2 TRANSFERS OF MONEY IN THIS MATTER. SHORTLY AFTER THE  
3 *NISHIUCHI VERSUS ATIA* LAWSUIT WAS FILED IN EARLY FEBRUARY  
4 2012, MR. TING TRANSFERRED \$2 MILLION TO HIS DAUGHTER TO  
5 PURCHASE REAL ESTATE FOR CASH, NO LIENS, NO OTHER MONEY. IN  
6 OTHER WORDS, THE PROPERTY TO BE HELD FREE AND CLEAR.  
7 SHORTLY AFTER PHASE 1 OF THE *NISHIUCHI* TRIAL ESTABLISHED  
8 MR. TING'S LIABILITY, THE REAL ESTATE WAS SOLD AND MUCH OF  
9 THE CASH RECEIVED WAS GIVEN OR SENT BY MS. TING TO HER  
10 FATHER, MR. TING, AGAIN, WHILE NOW RESIDING IN TAIWAN.

11 THE DEFENSE ARGUES THAT THESE EVENTS REFLECT TWO  
12 GIFTS, ONE FROM THE FATHER TO THE DAUGHTER AND THE OTHER  
13 FROM THE DAUGHTER BACK TO THE FATHER. TO THE COURT, ALL  
14 THIS MASSIVE PARKING FUNDS TO AVOID JUDGEMENT. SOME MIGHT  
15 REFER TO THIS AS JUDGMENT PROOFING.

16 IN ANY EVENT, THIS SEEMS TO ME TO GIVE PROOF TO THE  
17 CLAIMS ASSERTED BY THE PLAINTIFFS HERE THAT ATIA, HAVING  
18 BEEN LOOTED OF FUNDS BY MR. TING, WAS IN FACT CONTINUING TO  
19 SUFFER DESPITE THE CLAIMS OF MR. TING'S WEALTH BEING SOME  
20 FORM OF OPPORTUNITY PROVIDED AT THE SAME TIME THIS  
21 LITIGATION WAS GOING ON PROVIDING ESTATE PLANNING TO BENEFIT  
22 HIS DAUGHTERS.

23 I MUST TURN FOR A MOMENT TO CREDIBILITY, BECAUSE OF  
24 COURSE CREDIBILITY PLAYS SOME PART IN ALL OF THIS. AND  
25 WHILE I DO NOT LIKE COMMENTING ON THIS PARTICULARLY, FIRST  
26 OF ALL, WITH RESPECT TO MR. TING, MR. TING, AS A WITNESS, AS

1 REFLECTED BY THE DEPOSITION TRANSCRIPT, GIVES NO CREDIT TO  
2 HIMSELF. HIS SELF-INTEREST AND SELF PRESERVATION WERE TOO  
3 TIED UP IN WHAT HE WAS TESTIFYING TO AND ABOUT.

4 AS TO MS. TING, I FOUND, QUITE HONESTLY, MS. TING'S  
5 APPEARANCE, PRESENCE, AND HER MANNER OF SPEAKING TO BE  
6 EXCELLENT. AT FIRST I THOUGHT HER TO BE VERY CREDIBLE AND  
7 VERY BELIEVABLE. BUT ALL OF THAT ULTIMATELY WAS BELIED BY  
8 HER INABILITY TO RESPOND IN A FORM THAT I THINK WOULD BE  
9 MANDATED BY THE RELATIONSHIP OF DAUGHTER AND FATHER AND  
10 DAUGHTER AND MOTHER IN BEING UNWILLING, UNABLE TO PLACE THE  
11 ADDRESS, THE TELEPHONE NUMBER, LOCATION, REAL LOCATION OF  
12 HER PARENTS.

13 AND I HAVE TO SAY THAT I UNDERSTAND THAT THERE'S  
14 THIS FAMILY THING GOING ON HERE THAT WOULD PLACE HER IN THE  
15 AWKWARD POSITION OF NOT WANTING TO GIVE UP PARENTS, WHO  
16 OBVIOUSLY COULD BE PURSUED IN FURTHER JUDGMENT COLLECTION  
17 MATTERS THROUGH THE HAGUE CONVENTION AND OTHERWISE, BUT  
18 SHE'S A WITNESS ON THE STAND; AND SHE'S OBLIGATED TO RESPOND  
19 WITH THE TRUTH AND NOT WITH SOME "I DON'T REMEMBER" OR "I  
20 DON'T KNOW" RESPONSE TO SOMETHING AS SIMPLE AS THAT.

21 IN ADDITION, HER RESPONSES TO THE QUESTIONS ABOUT  
22 HER \$500,000 INVESTMENT, THAT MONEY DERIVED FROM THE SALE OF  
23 THE MANHATTAN BEACH PROPERTY, WHICH SHE TESTIFIED SHE  
24 TRANSFERRED TO AN INVESTMENT HOUSE IN TAIWAN, WHICH JUST  
25 HAPPENED TO HAVE AN INVESTMENT ADVISOR IN HONG KONG AND TO  
26 WHICH SHE TESTIFIED THAT SHE HAD INVESTED \$400,000 IN SOME

1 TECH COMPANY FOR WHICH SHE COULDN'T REMEMBER THE NAME OF THE  
2 TECH COMPANY, SHE COULDN'T REMEMBER WHAT EXACTLY THE  
3 TECHNOLOGY WAS THAT THE COMPANY PRODUCED, AND OTHERWISE  
4 COULD NOT REMEMBER WHAT HER INVESTMENT DID, STRIKES ME, ONCE  
5 AGAIN, AS BEING LUDICROUS IN TERMS OF HER MEMORY. CLEARLY  
6 THIS EVIDENCE, THIS TESTIMONY SHOWS NO CANDOR OR  
7 TRUTHFULNESS ON HER PART. ULTIMATELY, AS WE KNOW FROM THE  
8 JURY INSTRUCTIONS, A WITNESS WHO CANNOT BE BELIEVED ON ONE  
9 THING PROBABLY CANNOT BE BELIEVED ON OTHER AND ALL THINGS.  
10 I TAKE TESTIMONY FROM HER, THEREFORE, WITH A GRAIN OF SALT.

11 ALL OF THE INFERENCES FROM THE EVIDENCE PRESENTED  
12 IN THIS COURT LEAD THE COURT TO THE CONCLUSION AND FINDING  
13 IN FAVOR OF THE PLAINTIFF AND AGAINST THE DEFENDANTS,  
14 PATRICIA TING, MICHAEL LEE, AND DIVINE CREATIONS.

15 AS TO MICHAEL LEE AND DIVINE CREATIONS, ON ALL FOUR  
16 CAUSES OF ACTION, INCLUDING CONVERSION, THE COURT FINDS  
17 AGAINST THEM IN THE AMOUNT OF \$446,555.

18 AS AGAINST PATRICIA TING, THE COURT FINDS ON ALL  
19 CAUSES OF ACTION EXCEPT CONVERSION IN THE AMOUNT OF  
20 \$2,000,100. SO JUST TO BE CLEAR, THAT'S \$2,000,100.00.

21 I WANT TO CLOSE BY EXPRESSING MY RESPECT AND  
22 ADMIRATION FOR THE ADVOCACY OF THE DEFENSE LAWYERS IN THIS  
23 CASE. ULTIMATELY I HAVE TO SAY TO YOU THAT, WHERE I COME  
24 FROM, FACTS WIN OR LOSE CASES. ADVOCACY IS GREAT. YOU WERE  
25 EDUCATORS. BUT I TRULY, EVEN THOUGH THE JUDGMENT OF WHICH,  
26 BY THE WAY, I EXPECT IT TO BE APPEALED, HAS GONE THE WAY IT

1 HAS GONE, I WANT YOU TO KNOW HOW MUCH I DO RESPECT YOU TWO  
2 AS ADVOCATES IN THIS COURTROOM AND IN THIS CASE. THANK YOU  
3 FOR YOUR PARTICIPATION HERE.

4 MR. BURNS: THANK YOU, YOUR HONOR.

5 THE COURT: NOW, WITH RESPECT TO THIS MATTER, WHAT I AM  
6 GOING TO DO, ANTICIPATING THAT THERE WILL BE A REQUEST FOR A  
7 STATEMENT OF DECISION, IS INDICATE THAT AS TO THE PREVAILING  
8 PARTY, WHICH, I BELIEVE, MR. NAKASE, YOU WILL HAPPILY ACCEPT  
9 THE JOB, WILL BE TO PREPARE, IF THE REQUEST IS MADE, TO  
10 PREPARE A PROPOSED STATEMENT OF DECISION.

11 I AM ORDERING AT THIS POINT, SHOULD THAT REQUEST BE  
12 MADE, TO HAVE A TRANSCRIPT OF MY STATEMENTS PREPARED BY THE  
13 REPORTER, AND THAT TO BE INCORPORATED BY REFERENCE AND  
14 ATTACHED TO THE PROPOSED STATEMENT OF DECISION, PLEASE.

15 MR. NAKASE: THANK YOU, YOUR HONOR.

16 THE COURT: ALL RIGHT. SO YOU'LL PREPARE THE JUDGMENT  
17 AND CIRCULATE IT, OF COURSE. AND WE'LL FIND OUT IF THERE'S  
18 ANY OBJECTION TO THE PROPOSED JUDGMENT AS WELL.

19 MR. BURNS: COULD I ASK A CLARIFICATION ON THE RULING  
20 THAT MAY -- THE COURT RECITED THAT THE FINDINGS WERE ON, AS  
21 YOU SAID, ALL CAUSES OF ACTION. BUT THAT REFLECTS THAT THE  
22 COURT PRE-TRIAL DISMISSED ON NONSUIT --

23 THE COURT: ONLY AS TO THE REMAINING CAUSES OF ACTION.

24 MR. BURNS: VERY WELL. I WANTED TO MAKE SURE THAT WAS  
25 CLEAR IN THE RECORD.

26 THE COURT: THANKS FOR THE CLARIFICATION. ALL RIGHT.

1 THE CLERK: I DON'T SEE A DISMISSAL ON KANG CHEN.

2 THE COURT: WE'LL GRANT MR. NAKASE'S MOTION TO DISMISS  
3 MR. KANG CHEN?

4 MR. NAKASE: YES, YOUR HONOR.

5 THE COURT: KANG S. CHEN?

6 MR. NAKASE: YES, YOUR HONOR.

7 THE COURT: DISMISSED ON YOUR MOTION.

8 MR. NAKASE: THANK YOU, YOUR HONOR.

9 THE COURT: ALL RIGHT. GOOD LUCK EVERYBODY. THANK  
10 YOU.

11 MR. BURNS: THANK YOU, YOUR HONOR.

12 MR. COHAN: THANK YOU VERY MUCH, YOUR HONOR.

13

14 (END OF PROCEEDINGS.)

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REPORTER'S CERTIFICATE

STATE OF CALIFORNIA )  
                          ) SS.  
COUNTY OF ORANGE   )

I, LYNN O. PETERSON, CSR NO. 7706, OFFICIAL  
COURT REPORTER, DO HEREBY CERTIFY THAT THE FOREGOING  
REPORTER'S TRANSCRIPT IS A FULL, TRUE AND CORRECT  
TRANSCRIPTION OF MY SHORTHAND NOTES THEREOF, AND A FULL,  
TRUE AND CORRECT STATEMENT OF THE PROCEEDINGS HAD IN SAID  
CAUSE.

DATED AT SANTA ANA, CALIFORNIA, THIS 13TH DAY  
OF DECEMBER, 2014.



LYNN O. PETERSON, CCRR, CSR #7706  
OFFICIAL COURT REPORTER