

Clerk stamps date here when form is filed.

**FILED****AUG 07 2012**Superior Court of California  
County of TuolumneBy: Laura Kuffler Clerk

Fill in court name and street address:

Superior Court of California, County of  
County of Tuolumne  
41 West Yaney Avenue  
Sonora, CA 95370

Fill in your case number and case name below.

Case Number:

SC18563

Case Name:

**Answer**

The person listed in ① on page 1 of this form has asked the court to make an order in your small claims case.

Follow these steps to tell the court what you want to do about this request:

- Read page 1 to see what the person in ① is asking for.
- Fill out ⑦–⑩ below.
- Mail your completed form to the court right away.
- Mail a copy of this form to each plaintiff and defendant listed in ① and ② on page 1 of this form.

The court will mail its decision to all plaintiffs and defendants in this case or will make a decision at a court hearing or trial.

If you do nothing, the court may make the order without hearing from you.

**⑦ The person filing this answer is:**Name: Charles P. Varvayanis and Patricia T. JonesAddress: P.O. Box 395, Long Barn, CA 95335Check one:  A defendant in this case  A plaintiff in this case**⑧ Tell the court what you want to do about this request.***(Check all that apply):*

- a.  I agree to the order requested in ③.
- b.  I do not agree to the order requested in ③. *(Explain below:)*

See Attachment Check here if you need more space. Use Form MC-031 or a plain sheet of paper. Write "SC-105, Item 8" on top.c.  I ask the court to have a hearing to decide this matter.**⑨** I mailed a copy of this form to everyone listed in ① and ② of this form on *(date)*: 8/7/2012**⑩** I declare under penalty of perjury under California state law that the information above and on all attachments is true and correct.Date: 8/7/2012Charles P. Varvayanis*Type or print your name***? Need help?**

For free help, contact your county's Small Claims Advisor:

Or, go to "County-Specific Court Information" at [www.courtinfo.ca.gov/selfhelp/smallclaims](http://www.courtinfo.ca.gov/selfhelp/smallclaims)  
*Sign your name**If the request on page 1 was made after the hearing, the clerk fills out below.*

— Clerk's Certificate of Mailing —

I certify that I am not involved in this case and *(check one)*:

- A Certificate of Mailing is attached.
- The *Request for Court Order and Answer* was mailed first class, postage paid, to all parties at the addresses listed in ②.

On *(date)*: \_\_\_\_\_From *(city)*: \_\_\_\_\_, California

Clerk, by \_\_\_\_\_, Deputy

1 Charles Varvayanis  
Patricia T. Jones  
2 P. O. Box 395  
Long Barn, CA 95335  
3 Telephone: (209) 586-3782  
Facsimile: (209) 586-3761  
4

5 SUPERIOR COURT OF CALIFORNIA, COUNTY OF TUOLUMNE

6		)	No.: SC 18563
7	CHARLES P. VARVAYANIS,	)	
8	PATRICIA T. JONES,	)	<b>PLAINTIFFS' ANSWER TO</b>
9	Plaintiffs,	)	<b>UNVERIFIED REQUEST FOR COURT</b>
		)	<b>ORDER</b>
10	vs.	)	Dept: 5
		)	JUDGE: Honorable Kim Knowles
11	ODD FELLOWS SIERRA RECREATION	)	
	ASSOCIATION, INC.,	)	
12	Defendant	)	

13  
14 Comes now Plaintiffs CHARLES P. VARVAYANIS AND PATRICIA T. JONES, natural  
15 persons, and answers Defendant's unverified request for court order.

16  
17 **I. Answers to: Statement of the Facts.**

18 **A. Plaintiffs' Claims.**

19 Defendant fraudulently directly billed assessments from Plaintiffs for two lots that do not  
20 exist.

21 **B. Defendant and the HOA.**

22 The description of Plaintiffs is incomplete. Plaintiffs are members of Odd Fellows Sierra  
23 Homeowners' Association (OFSHA) since April 18, 2011 and Plaintiff Charles Varvayanis is a  
24 former member of both the OFSHA and Odd Fellows Sierra Recreation Association (OFSRA)  
25 board of directors and served as OFSRA's President.

1 Although Defendant frequently mentions relationships between Defendant, OFSHA and  
2 Plaintiffs throughout the request for order, the relationships with OFSHA have no relevance in  
3 this case, as will be evidenced in the answers that follow. It is uncertain why Defendant  
4 mentions OFSHA at all.

5 **C. The Park and the Subject Property.**

6 I.O.O.F. Odd Fellows Sierra Camp Subdivision No.1 and I.O.O.F. Odd Fellows Sierra  
7 Camp Subdivision No.2 (collectively, "Sierra Park") presently consists of 360 lots and not the  
8 364 alleged by Defendant. Plaintiffs own two (2) lots within Sierra Park and not four (4) lots as  
9 alleged by Defendant.

10 The legal owner of some of the certain areas within and adjacent to Sierra Park and the  
11 improvements is unclear.

12 Defendant has not paid its Annual Assessments on the one (1) lot it owns within Sierra  
13 Park since about 1990.

14 **D. The Subject Agreements.**

15 The Subject Agreements have no relevance in this case.

16 **E. Determination and Payment of Amounts Due Pursuant to Subject Agreements.**

17 The information regarding OFSHA has no relevance in this case.

18 **F. Payment of Annual Fees/Judgment Against HOA.**

19 The information regarding OFSHA has no relevance in this case.

20 Tuolumne County Superior Court, Case No. CV57297, OFSRA v. OFSHA for the period  
21 beginning on June 1, 2011 and ending on May 31, 2012 (the "2011-12 Annual Fee") is beyond  
22 the time period covered by this action and in no way relevant to this action.

23 **G. Plaintiffs' Lots.**  
24  
25

1 Plaintiffs own only two (2) lots in Sierra Park and **not** four (4) lots as alleged by  
2 Defendant. The OFSHA articles and bylaws are **not** recorded on any of Plaintiff's lots as alleged  
3 by Defendant. OFSHA CC&Rs are recorded on both of Plaintiff's lots.

4 Defendant includes the phrase "based on the original subdivision maps of the Park"  
5 which has **no** relevance in this case.

6 Plaintiffs merged four (4) lots in Sierra Park via the County of Tuolumne so that there are  
7 now only two (2) APNs for the resulting two (2) lots in Sierra Park and **not** the two (2) APNs for  
8 four (4) lots in Sierra Park as alleged by Defendant.

9  
10 **II. Answers to: This Court Does not Have Jurisdiction to Grant Declaratory Relief.**

11 A small claims court's jurisdiction is granted by Code of Civil Procedure<sup>1</sup> Sections  
12 116.220 and 116.221. Section 116.220 grants equitable relief in the form of rescission. In  
13 addition Section 116.221 grants jurisdiction in an action brought by a natural person to ten  
14 thousand dollars (\$10,000).

15 Defendant has charged annual assessments and late fees for two parcels that do not exist.

16 OFSHA, its articles and bylaws and the CC&R are of no relevance in regard to the  
17 aforementioned directly billed assessments.

18 Plaintiffs seek equitable relief in the form of rescission from Defendant's Inadequate  
19 Consideration.

20 As to the matter of adjusting the account(s) to a total of two parcels: If this court does not  
21 have jurisdiction in this matter, plaintiffs then request the court to separate this count and dismiss  
22 it alone.

23  
24  
25  

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<sup>1</sup> Further statutory references are to the Code of Civil Procedure unless otherwise noted.

1 **III. Answers to: The Amount Demanded by Plaintiffs in this Matter Exceeds Small**  
2 **Claims Jurisdictional Limits (for Equitable Relief)**

3 Section 116.220, subdivision (b) specifies that equitable powers apply in any action  
4 seeking relief authorized by section 116.220, subdivisions (a)(1) through (a)(4).

5 Section 116.221 specifies that in addition to the jurisdiction conferred by Section  
6 116.220, the small claims court has jurisdiction in an action brought by a natural person, if the  
7 amount of the demand does not exceed ten thousand dollars (\$10,000).

8 Plaintiffs ask for recovery of \$2,048 in this matter. \$2,048.00 is within the jurisdictional  
9 limits of this court for equitable relief.

10 **IV. Answers to: The Sum of the Three Small Claims Actions filed Against Defendant by**  
11 **Plaintiffs Exceeds Small Claims Jurisdictional Limits**

12 Section 116.221 grants a small claims court jurisdiction over actions brought by natural  
13 persons for amounts not more than \$10,000.00.

14 Section 116.220 (D) grants that in any case in which the lack of jurisdiction is due solely  
15 to an excess in the amount of the demand, the excess may be waived, but any waiver is not  
16 operative until judgment.

17 As set forth above, this action is one of three (3) small claims actions filed by Plaintiffs  
18 against Defendant that are set for trial on August 23, 2012 in Dept. 5 of this court. Plaintiffs ask  
19 for recovery of \$2,048.00 in this matter. In SC18553, Plaintiffs seek recovery of \$8,460.00. In  
20 SC18586, Plaintiffs seek recovery of \$270.00. The total damages requested by Plaintiffs in all  
21 three actions are \$10,778.00

22 Plaintiffs will wave \$778.00 from SC18553 to be within the "total sum test of  
23 jurisdiction" of \$10,000.00

24 **V. Answers to: Conclusion.**  
25

1 Plaintiffs' case is appropriate for resolution in small claims court because it asks for  
2 equitable relief, which is statutorily authorized, and also because it seeks recovery of \$2,048.00,  
3 which is within the small claims jurisdictional limits (for natural persons), and because Plaintiffs  
4 have filed three (3) separate small claims actions, Plaintiffs will wave \$778.00 to keep the  
5 aggregate from exceeding \$10,000.00.

6 As to the matter of adjusting the account(s) to a total of two parcels: If this court does  
7 not have jurisdiction in this matter, plaintiffs then request the court to separate this count and  
8 dismiss it alone.

9 Plaintiffs accordingly ask that this case proceed.

10 In addition to the foregoing, Plaintiffs' case could **not** be brought against OFSHA as set  
11 forth above.

12  
13 DATED: August 7, 2012

Respectfully submitted,

*Charles P. Varvayanis*

By: *Pat Jones*

Charles Varvayanis  
Patricia T. Jones