

EXH. 10

**(D)**  
SAN FRANCISCO HOUSING AUTHORITY  
LEASED HOUSING DIVISION  
1815 EBBERT STREET  
SAN FRANCISCO, CA 94104  
(415) 715-3280/(415) 705-3287-FAX

TENANT/OWNER ASSISTED LEASE  
SECTION 8 HOUSING CHOICE  
VOUCHER PROGRAM

1. Parties:

Landlord: BANFORD, AUTRY/SUSANNE  
Address: 155 BEVERLY STREET  
SAN FRANCISCO, CA 94132  
TENANT: SHARON BRIDGEMATER

2. Unit:

Address: 1269 OAKDALE AV  
SAN FRANCISCO, CA 94124

The household consists of the following members:

SHARON BRIDGEMATER  
JAMES BRIDGEMATER S.

3. Term of lease:

The term of the Lease begins 07/01/08 and shall end on 12/31/08. In the event that the lease is not executed, the tenancy will continue on a month to month basis effective the first day of the month following the expiration date of the lease term. The non-renewal month of this lease shall be 01.

Rent:

A. \$ 717.00 shall be payable by the Tenant as a housing assistance payment on behalf of the tenant.  
\$ 1,033.00 shall be payable by the Tenant directly to the Landlord.  
\$ 1,750.00 per month is the total rent amount the Landlord has collected for the unit.

B. The amount of the total monthly rent payable to the Landlord during the term of the lease (called the "contract rent") shall be determined in accordance with the Contract between the Landlord and the PWA.

C. The portion of the Contract rent payable by the Tenant ("tenant rent") shall be an amount determined by the PWA in accordance with HUD regulations and requirements. The amount of the tenant rent is subject to change as determined by the PWA during the term of the lease. Any change in the amount of the tenant rent will be stated in a written notice by the PWA to the Tenant and the Landlord, stating the new amount and the effective date of the change. Initially and until such change the Tenant agrees to pay 1,033.00 per month to the Landlord as the tenant rent. The rent is due and payable on the first day of the month; the initial rent payment shall be prorated if the lease does not begin on the first day of the month.

EXH. 11

⑪

1/11/08

Received from Sharon Bridgewater  
Three hundred forty + no/100  
(Cash). down payment on # 500 deposit  
for 1769. Datedate Ave, SF -  
Balance of \$160 plus your  
share of first + last months rent  
due ~~on~~ before move in date

Suzanne Banford  
Ruby Banford

333-9181

Cell 816-1312

816-2204

EXH-12

# Kimball, Tirey & St. John LLP

## What You Should Know: Evictions and the Right to a Jury Trial

*Jane Creason, Esq.*

**March, 2009**

For over 100 years, California's Constitution has granted defendants in most lawsuits the right to a jury trial. The California Constitution states in part, "Trial by jury is an inviolate right and shall be secured to all..." This right extends to both residential and commercial tenants subject to an unlawful detainer action (eviction).

Can this right be waived in the tenant's lease or other document? Recent case law has clarified that a right to a jury trial cannot be waived before the lawsuit is filed. This means that jury trial waivers in both commercial and residential leases are not enforceable.

### Using the Jury trial as leverage

Unfortunately, some unscrupulous attorneys and tenants demand jury trials for the ulterior purpose of holding their landlord hostage to the legal system. Knowing that a jury trial typically takes much longer to set, and longer to try, and that it is therefore more expensive to prosecute, some tenant's attorneys and eviction defense firms can, and do, use the demand of a jury trial as leverage to make unreasonable settlement demands.

They also know that a jury is much less predictable than an experienced judge, and that juries occasionally decide cases on misunderstandings, or what they think the law should be, but is not. Ironically, jury trials for evictions drive up legal costs for landlords, creating more pressure to raise rents, hurting the very tenants that legal defense centers claim to be helping.

Demanding jury trials on unlawful detainer actions is also a tremendous burden for the courts and ultimately the taxpayers who pay for them. Typically, unlawful detainer trials are heard by competent commissioners and judges who are familiar with the intricacies of landlord/tenant law. In a typical day, one court can hear as many as eight or more cases. On the other hand, a jury trial can take up an entire courtroom for several days. It is often difficult to find available court rooms to hear jury trials, and delays of up to several weeks can occur.

### Free legal representation for the defendant

Once a residential unlawful detainer action is filed, court clerks are required to mail notices to defendant/tenants informing them that they may qualify for pro bono (free) representation along with contact information of legal aid and eviction defense firms. Some of these firms, especially in the San Francisco Bay/Oakland area, demand jury trials on almost every case as a matter of course.

So what can be done when a defendant/tenant demands a jury trial during the eviction process? The first thing to do is determine whether or not the defendant/tenant posted the required amount of jury fees, which is a condition of being granted a jury trial. However, if the defendant/tenant cannot afford to pay for a jury trial, they can request the court waive the fee based upon their financial status.

#### **Summary judgments**

The next step is to determine whether or not it is prudent to file a summary judgment motion. This motion would remove the need for a trial by jury as it alleges that there are no disputed issues of fact for a jury to decide and instead, the case can be decided by a judge on the basis of the law alone. If a summary judgment motion is not advisable, then a motion can be made requesting the court to limit the scope of the jury to a short, specific set of facts. If granted, this strategy can reduce the number of days of a jury trial as well as the risk of an undesirable decision based on extraneous evidence.

#### **Attorney's fees and costs**

Attorney's fees and costs are an important consideration when facing a jury trial. If the defendant/tenant is the prevailing party, the landlord is responsible for paying the tenant's attorney's fees and costs in addition to their own fees and costs. Payment of "reasonable" fees and costs must be made even if the defendant qualified for free legal aid services and has not actually paid any attorney's fees or costs. As a result, many landlords are limiting the amount of attorney's fees to be awarded to the prevailing party through their lease. The limit is typically \$500 to \$1000.

It is important to limit rather than remove the attorney's fees and costs provision in your lease, since having an attorney's fees clause may be important as a deterrent to otherwise litigious tenants, and also allows for recovery of fees and costs through the collection process. In fact, many attorney's fees and costs awards are more than 40% of the landlord's total judgment in an unlawful detainer, and judgments carry a 10% interest rate until collected. Although the prevailing landlord will also be limited in the recovery of fees and costs, there is a benefit to preventing an unlimited fees and costs award in the event that the tenant is the prevailing party... especially in an expensive jury trial.

#### **Experienced representation**

It is also very important to be represented by a firm or attorney who is experienced in conducting jury trials. Many attorneys have never tried a case in front of a jury and it takes an experienced attorney to know how best to represent their clients in what some have called "an art." If you are faced with a jury trial, make sure your attorney is experienced and skilled in conducting jury trials.

#### **Settling the case**

Should you settle? There are other than just monetary considerations when deciding whether or not to take what seems to be an unreasonable offer of settlement. If you settle the case, you have certainty and you avoid the stress and anxiety that a trial can bring. You also save the time spent in preparation and in court. However, you may also end up with a tenant who is motivated to share the terms of the settlement with other tenants on your property and/or repeat the same actions with future landlords. Although the terms of the settlement can include confidentiality, it is difficult to enforce. Finally, the attorney or eviction defense firm also learns that you are amenable to settlement offers from future defendant/tenants.

*Kimball, Tirey & St. John LLP trial attorneys performed approximately 7,000 court and/or jury trials in 2008, and are seasoned experts in representing the firm's clients in litigation.*

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*Kimball, Tirey & St. John LLP is a full service real estate law firm representing residential and commercial property owners and managers. This article is for general information purposes only. Before acting, be sure to receive legal advice from our office. If you have questions, please contact your local KTS office. For contact information, please visit our website: [www.kts-law.com](http://www.kts-law.com). For past Legal Alerts, Questions & Answers, and Legal Articles, please consult the resource library section of our website.*

EXH. 13



**Rental Assistance Disbursement Component  
RADCo**

995 Market Street, 12<sup>th</sup> Floor  
San Francisco, CA 94103  
Tel (415) 947-0797 x 113 • Fax (415) 947-0331

January 14, 2008

Peter Busch  
Judge of the Superior Court  
400 McAllister Street  
San Francisco, CA 94102

Dear Mr. Busch,

I am writing in regards to Sharon Bridgewater, who resides at 427 Page Street, San Francisco, CA 94102. Ms. Bridgewater has completed an application for rental assistance at this office. RADCo can help her with her back rent up to the amount of \$1000.00 if Ms. Bridgewater can pay all other fees, if any. Pending the outcome of her case in court and we are informed of exactly how much back rent she owes, we will complete her application, and send payment directly to her landlord for back rent owed.

Do not hesitate to contact me if you have any questions.

Thank you for your patience and cooperation.

Sincerely,

*Amy Price*

Amy Price  
Rental Assistance Coordinator

(11)

EXH. 14

14



**Rental Assistance Disbursement Component  
RADCo**

995 Market Street, 12<sup>th</sup> Floor  
San Francisco, CA 94103  
Tel (415) 947-0797 x301 • Fax (415) 947-0331

February 15, 2008

To Whom It May Concern:

I am writing in regards to Sharon Bridgewater who resides at 427 Page Street, San Francisco, CA 94102. Ms. Bridgewater came to our office to apply for rental assistance for the back rent she owed. In order to complete her application we needed to know how much of the amount due was rent, and how much was for legal, late fees, etc. This is because RADCo can only pay rent, and not any other fees. On more than four different occasions I attempted to get the correct amount from her apartment manager, but I was unable to. At one point I was sent a ledger, but then was told it was not the correct amount. As of today I have still not received the amount due and was therefore unable to finalize her application and pay her back rent.

Please contact me if you have any questions.

Thank you,

Sincerely,

*Amy Price*

Amy Price  
Rental Assistance Coordinator

EXH. 15

1 KIMBALL, TIREY & ST. JOHN, LLP  
2 Jane L. Creason Bar No. 189094  
3 5994 W. Las Positas Blvd., Suite 219  
(800) 525-1690  
(800) 281-1911 (fax)

4 Attorney for Plaintiff  
5 HAYES VALLEY LIMITED PARTNERSHIP

FILED  
SUPERIOR COURT  
COUNTY OF SAN FRANCISCO

FEB 19 2008

GORDON PARK-LI, Clerk

RY: *[Signature]* *Paragon Clerk*

6 SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

7 HAYES VALLEY LIMITED PARTNERSHIP

8 Vs. Plaintiff,

9 SHARON BRIDGEWATER

10 Defendant

11 DOES 1 TO 10 INCLUSIVE

12 Case No.: CUD-08-617995

13 STIPULATION FOR ENTRY OF JUDGMENT  
14 AND ORDER THEREON

15 IT IS SO STIPULATED by and between the parties hereto through Plaintiff's counsel,  
16 KIMBALL, TIREY & ST. JOHN; Plaintiff, HAYES VALLEY LIMITED PARTNERSHIP,  
17 and Defendant, SHARON BRIDGEWATER, that judgment in the above-entitled will be entered  
18 as follows should Defendant fail to comply with any of the terms stated herein:

19 1. Plaintiff to receive possession of the premises located at 427 PAGE STREET,  
20 San Francisco, CA, 94102 on ~~March 17, 2008~~ *April 30 (See)*, 2008. A Writ of Possession for said premises may  
21 issue immediately if Defendant has not restored possession to Plaintiff by vacating said  
22 premises on or before ~~March 17, 2008~~ *April 30 (See)* 2008 by the close of business at 6:00 p.m.

23 2. The parties further agree that in exchange for Defendant moving out by ~~April 30, 2008~~  
24 Plaintiff will waive all of the past due rent in the amount of \$2,124.74.

*April 30*  
*See* *Wt*

1       3. Plaintiff waives \$450 attorneys' fees and \$405 in costs.

2       4. The rental agreement/lease under which Defendant holds possession of said  
3 property is forfeited on April 30, 2008. *(Signature)*

4       5. Defendant SHARON BRIDGEWATER expressly waives any and all rights to a  
5 noticed motion and/or right to a hearing on the entry of a judgment pursuant to this stipulation.

6       6. Defendant SHARON BRIDGEWATER expressly agrees to leave the premises in  
7 good repair and clean condition according to California law.

8       7. Plaintiff shall return Defendant's security deposit in ~~the amount of \$6000.00 in~~  
9 ~~exchange for key by March 17, 2008.~~ *(Signature)*

10      8. Defendant SHARON BRIDGEWATER and any others in possession will move  
11 out April 30, 2008 by 6:00 p.m.

12      9. If Defendant fails to comply with any of the terms as herein stated, judgment shall  
13 enter for possession and the full amount of past due rent, attorneys' fees and costs. A writ of  
14 execution for money and possession shall issue immediately upon Declaration by Plaintiff's  
15 counsel if Defendant fails to comply with this stipulation. Judgment for possession shall be  
16 entered pursuant to CCP 415.46 as to any and all occupants.

17      10. In the event of non-compliance, Plaintiff shall give 24-hour telephonic notice to  
18 the defendant at the following phone number: 415-461-5573.

19      11. This stipulation shall be dispositive of all issues raised in Plaintiff's Complaint and  
20 all affirmative defenses which could have been raised in Defendant's Answer, and ~~shall be~~  
21 ~~considered as judicial admissions in further proceedings initiated by either party.~~ *(Signature)*

22      12. It is further stipulated that facsimile signatures shall be deemed originals, per  
23 California Rules of Court, Rule 2.305 (d) and that this Stipulation may be executed in  
24 ~~in two counterparts, each signed by a party and then faxed to the other party.~~ *(Signature)*

25

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27

28

1 counterparts as circumstances require and shall be deemed fully enforceable upon execution  
2 of all parties hereto.

3 13. In the future, Plaintiff will give only a neutral reference as to dates of occupancy  
4 and rental amount.

5 14. Each signatory hereto represents that they have the express authority from the  
6 party they represent to sign for and bind that party to the terms herein.

7 15. *Defendant reserve the right to sue in the further and  
8 do not give up all claims pertaining to further lawsuits*  
9 (SB)

Dated: 2/19/08

  
Defendant- SHARON BRIDGEWATER

  
Plaintiff- HAYES VALLEY LIMITED PARTNERSHIP  
By: \_\_\_\_\_  
Authorized Agent for Plaintiff

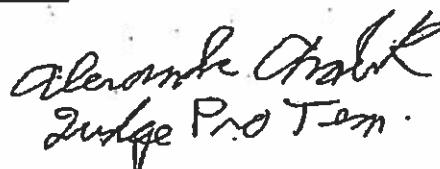
Dated: 2/19/08

  
Jane Creason  
KIMBALL, TIREY & ST. JOHN, LLP  
Attorneys for Plaintiff  
By: Jane Creason

20 ORDER

21 IT IS SO ORDERED:

22 Dated: 2-19-08

  
Alexander Stark  
Judge Pro Tem

23 JUDGE/COMMISSIONER OF THE SUPERIOR COURT

EXH-16

16

**SUPERIOR COURT**  
**CITY & COUNTY OF SAN FRANCISCO**  
**SETTLEMENT CONFERENCE HEARING**  
**HAYES VALLEY LIMITED PARTNERSHIP**

**(PLAINTIFF(S))**

SHARON BRIDGEWATER, ET AL

CASE NO. 617995  
LINE #1**(DEFENDANT(S))****Appearances:**

SHAWN BANKSON

For Plaintiff: 1. C. Croasm, Esq.

PRO PER

For Defendant:

Nature of Action:

Amount of Prayer: \$ 2:45 PM

Plaintiff's Demand: \$ Either (1) MOVE OUT w/ 90-Day WINDOW OR  
 Defendant's Offer: \$ Full PAYMENT OF ALL BACK RENT plus  
ATTORNEY'S FEE as considerationResidue: for pay and stay

Specials:

Court suggested settlement figure: \$

AT 3:30 PM, that offer has  
 been raised to 60-Day MOVE  
 FEB 19 2008 OUT, ACCOUNTING  
 OF DEPOSIT WITH  
 ANY SUR RETURNED  
 ACCORDING TO LAW.

**TRIAL DATA:**Case is set for JURY - COURT trial on

at 9:00 A.M., Courtroom 206, 400 McAllister Street

Time estimated for trial:

Court trial for assessment of damages only: YES - NO

Names of Judges on panel for court trial:

Stipulation entered as to 8 person jury: YES - NO

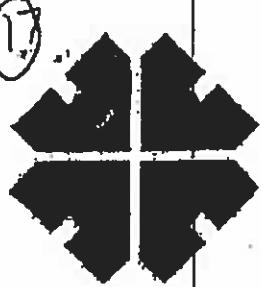
BAJI instruction numbers submitted:

Sanctions to be imposed if settled after 10:00 A.M.

ON CALENDAR will Chen  
 Judge Presiding, Settlement Hearing

WILLIAM F. CHEN

EXH. 17



**MAUI ECONOMICS CONCERNS OF THE COMMUNITY, INC.**  
**DBA Na Hale O' Wainee Resource Center**  
15 Ipu'Aumakua Lane, Lahaina, Hawaii 96761

Board of Directors  
James L. Worley, Chair  
Alec McNamee, Jr., Vice Chair  
Mary Hew, Secretary  
Russell Yamane, Treasurer

Hugh Chare  
Marc Chesick  
Fr. Gary Collon  
Wamea Suzuki  
John Dependahl  
Mark Renschen

James DiPalco  
Jack Gray  
Alvin Tagomori  
John Decker  
Keoki Freeland  
Michael Victorino

*Member, Maui United Way*  
Rebecca L. Woods  
Executive Director  
(808) 242-7600  
Fax (808) 244-0121  
Leasing Office  
(808) 249-0700  
Fax: (808) 249-8226

January 16, 2009

This letter is to confirm that Sharon Bridgewater resided at Na Hale O Wainee Resource Center, Women's Dorm Facility in our emergency program. Sharon Bridgewater entered our facility on May 9<sup>th</sup>, 2008 and exited on May 29<sup>th</sup>, 2008.

Na Hale O Wainee Resource Center  
15 Ipu'Aumakua Lane  
Lahaina, HI 96761

Should you have any questions, please call me, Terry Applegate (Site Director) at 662-0076, ext 222.

Sincerely,

Terry Applegate, Site Director  
Na Hale O Wainee Resource Center

1  
2  
3 **VERIFICATION**  
4  
5  
6

7 I Sharon Bridgewater Declare:

8 I am the Plaintiff in the above entitled action.

9 I make this verification because the facts set forth in the complaint are within my  
10 knowledge and it is I who entered into the stipulation with defendants in the underlining  
11 unlawful detainer.

12 I have read the foregoing complaint and know the contents thereof. The same is true of  
13 my own knowledge. I except as to those matters which are therein alleged on information  
14 and belief, and as to those matters, I believe it to be true.

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

19  
20 Dated: August 3, 2009

21 At San Francisco, California

24  
25   
26 Sharon Bridgewater  
27  
28

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

## 12 SHARON BRIDgewater,

13 Plaintiff,

No. C 09-3551 PJH

14

## **ORDER OF DISMISSAL**

15 HAYES VALLEY LIMITED  
PARTNERSHIP, et al.,

### Defendants.

18 Plaintiff Sharon Bridgewater filed this action on August 3, 2009, against defendants  
19 Hayes Valley Limited Partnership (a/k/a Hayes Valley Apartments II L.P.) ("HVLP");  
20 McCormack Baron Ragan Management Services, Inc.; MBA Urban Development Co.; The  
21 Related Companies of California, Inc.; and Sunamerica Affordable Housing Partnership.  
22 Also on August 3, 2009, plaintiff filed a request for leave to proceed in forma pauperis  
23 ("IFP"). Because the court finds that the complaint fails to state a claim, the complaint is  
24 hereby dismissed pursuant to 28 U.S.C. § 1915(e).

## BACKGROUND

26 The following facts are taken from the allegations in the complaint and from the  
27 papers attached as exhibits to the complaint.

28 Plaintiff Sharon Bridgewater ("Bridgewater") is a participant in the United States

1 Government's Housing and Urban Development (HUD) rental assistance program (known  
2 as "Section 8").<sup>1</sup> On January 5, 2005, Bridgewater entered into an agreement on January  
3 5, 2005, with defendant Hayes Valley Limited Partnership ("HVLP"), owner of Hayes Valley  
4 Apartments, for lease of an apartment located at 427 Page Street in San Francisco.

5 On April 12, 2006, HVLP served Bridgewater with a notice to pay rent or quit. The  
6 notice asserted that Bridgewater was delinquent in payment of the rent for the premises  
7 located at 427 Page Street, for the period September 2005 through March 2006.

8 On April 24, 2006, HVLP filed an unlawful detainer action against Bridgewater in the  
9 Superior Court of California, County of San Francisco, based on Bridgewater's alleged  
10 failure to pay rent as agreed.

11 On May 11, 2006, the parties entered into a stipulation for entry of judgment and  
12 dismissal. HVLP agreed that Bridgewater could remain in possession of the premises at  
13 427 Page Street if she paid a total of \$2,674.00, which included past rent, attorney's fees,  
14 and court costs, to be paid in installments with payment complete by November 5, 2007.  
15 Bridgewater alleges that she did not sign the stipulation, and that the person who did sign  
16 was a "household member" without authorization to sign for her.

17 On November 12, 2007, Bridgewater was served with another notice to pay rent or  
18 quit. On November 26, 2007, HVLP filed a declaration of non-compliance with the May 11,  
19 2006 stipulation for entry of judgment and dismissal, stating that Bridgewater had paid  
20 \$2,036.00 toward the total of \$2,674.00, but had failed to pay the remainder. HVLP  
21 requested judgment in the amount of \$638.00, possession of the property located at 427  
22 Page Street, and a writ of possession to be issued immediately.

23 On December 17, 2007, the Superior Court entered judgment against Bridgewater  
24 for \$638.00, and a judgment for possession of the premises at 427 Page Street. The  
25 Sheriff of the County of San Francisco executed a proof of service dated January 16, 2008,  
26 showing service of the writ of possession on Bridgewater, and placing HVLP in possession

27  
28 <sup>1</sup> This is a reference to Section 8 of the United States Housing Act of 1937, 42 U.S.C.  
§ 1437, et seq.

1 of the premises.

2 Bridgewater filed a request to vacate the judgment, and on January 22, 2008, the  
3 court issued an order vacating the judgment. On January 31, 2008, Bridgewater signed a  
4 lease for rental of premises at 1769 Oakdale in San Francisco.

5 On February 19, 2008, the parties signed a stipulation for entry of judgment,  
6 providing that HVLP was to receive possession of the premises at 427 Page Street on April  
7 3, 2008, and that a writ of possession would issue immediately if Bridgewater failed to  
8 restore possession to HVLP by vacating the premises by April 30, 2008. The parties  
9 further agreed that in exchange for Bridgewater moving out by April 30, 2008, HVLP would  
10 waive all past due rent, in the amount of \$2,124.74, and would also waive attorney's fees  
11 and costs. The stipulation provided further that "[t]his stipulation shall be dispositive of all  
12 issues raised in [HVLP's] Complaint and all affirmative defenses which could have been  
13 raised in [Bridgewater's] Answer."

14 On December 17, 2008, Bridgewater filed suit in this judicial district against HVLP  
15 and other defendants, alleging violation of HUD regulations and also alleging state law  
16 claims. See Bridgewater v. Hayes Valley Limited Partnership, C-08-5622 MHP. On  
17 January 27, 2009, the court dismissed the federal claims pursuant to 28 U.S.C. § 1915, and  
18 dismissed the state law claims without prejudice to refiling them in state court.

19 Approximately seven months later, Bridgewater filed the present action. The  
20 complaint is 93 pages long, exclusive of a "Separate Statement of Undisputed Facts," plus  
21 17 exhibits. The complaint alleges 22 causes of action, including federal claims for  
22 violation of Bridgewater's Fifth and Fourteenth Amendment rights to due process, under 42  
23 U.S.C. § 1983; for violation of 42 U.S.C. § 1437 (Declaration of policy and public housing  
24 agency organization); 24 C.F.R. §§ 247.4 and § 966.53(c) (HUD regulations); for violation  
25 of § 504 of the Rehabilitation Act of 1974, 29 U.S.C. § 794; for violation of the Fair Housing  
26 Act, 42 U.S.C. § 3604; for violation of the Americans With Disabilities Act, 42 U.S.C.  
27 § 12182; and for violation of 18 U.S.C. §§ 241 and 242.

28 In addition, Bridgewater asserts numerous state law claims, including claims of

1 wrongful eviction; tortious interference with contract; common law forcible detainer;  
2 common law retaliatory eviction; tortious interference with right to quiet enjoyment of  
3 leasehold interest; extrinsic fraud on the court; intrinsic fraud; constructive fraud; intentional  
4 misrepresentation; conspiracy to commit extrinsic fraud on the court; intentional infliction of  
5 emotional distress; malicious prosecution; abuse of process; violation of the California  
6 Consumer Legal Remedies Act, Cal. Civil Code § 1780(b); conspiracy to commit intrinsic  
7 fraud; negligence; and negligent infliction of emotional distress.

8 Bridgewater seeks damages in the amount of \$1,401,872,000,000.00 (one trillion,  
9 four hundred one billion, eight hundred seventy-two million dollars), and also seeks  
10 injunctive relief.

11 On September 8, 2009, the court received a letter from Bridgewater, in which she  
12 stated that it was her intention to "file a shorter, amended complaint within the next two  
13 weeks." As of the date of this order, no amended complaint has been filed.

#### 14 DISCUSSION

##### 15 A. Legal Standard

16 The court may authorize a plaintiff to file an action in federal court without  
17 prepayment of fees or security if the plaintiff submits an affidavit showing that he or she is  
18 unable to pay such fees or give security therefor. 28 U.S.C. § 1915(a). When a complaint  
19 is filed in forma pauperis, it must be dismissed prior to service of process if it is frivolous or  
20 malicious, fails to state a claim, or seeks monetary damages from defendants who are  
21 immune from suit. 28 U.S.C. § 1915( e)(2); see also Franklin v. Murphy, 745 F.2d 1221,  
22 1226-27 (9th Cir. 1984 ).

23 A complaint is frivolous for purposes of § 1915(e) if it lacks any arguable basis in fact  
24 or in law. Neitzke v. Williams, 490 U.S. 319, 328- 30 (1989). A complaint lacks an  
25 arguable basis in law only if controlling authority requires a finding that the facts alleged fail  
26 to establish an arguable legal claim. Guti v. INS, 908 F.2d 495, 496 (9th Cir. 1990).

27 When a complaint is dismissed under § 1915(e), the plaintiff should be given leave  
28 to amend the complaint with directions as to curing its deficiencies, unless it is clear from

1 the face of the complaint that the deficiencies could not be cured by amendment. Cato v.  
2 United States, 70 F.3d 1103, 1106 (9th Cir. 1995) (dismissal of complaint as frivolous).

3 B. Analysis

4 The court finds that the federal causes of action must be dismissed for failure to  
5 state a claim, and/or for lack of subject matter jurisdiction. Bridgewater's federal claims  
6 attack either the notices to quit or pay rent, issued by HVLP in 2006 and 2007; the filing of  
7 the unlawful detainer action by HVLP in April 2006; the eviction pursuant to the writ of  
8 possession executed in January 2008; or the stipulation for entry of judgment, filed in  
9 February 2008.

10 As an initial matter, a number of Bridgewater's claims are time-barred. Under  
11 federal law, the statute of limitations begins to run when the plaintiff first "know[s] or ha[s]  
12 reason to know of the injury that is the basis of [the] action." RK Ventures, Inc. v. City of  
13 Seattle, 307 F.3d 1045, 1058 (9th Cir. 2002). Here, the allegations in the complaint  
14 establish that Bridgewater became aware of the alleged injuries at the time of their  
15 occurrence.

16 Cases filed under 42 U.S.C. § 1983 must be filed within two years from that date.  
17 See Cal. Civ. Proc. Code § 335.1 (two-year statute of limitations for personal injury claims,  
18 as amended in 2003); Jones v. Blanas, 393 F.3d 918, 927 (9th Cir. 2004) (§ 1983 takes  
19 statute of limitations set forth under state law for personal injury claims). Thus, any § 1983  
20 claims based on events that occurred prior to August 3, 2007 are time-barred. This  
21 includes any claims based on the April 12, 2006 notice to quit or pay rent; the April 24,  
22 2006, filing of the unlawful detainer action; and the May 11, 2006, stipulation for entry of  
23 judgment and dismissal.

24 Cases filed under the ADA and the Rehabilitation Act must also be filed within two  
25 years of the date that the plaintiff became aware of the alleged injury. Courts in this circuit  
26 have applied the California personal injury statute of limitations to ADA and Rehabilitation  
27 Act section 504 claims. See, e.g., Pickern v. Holiday Quality Foods Inc., 293 F.3d 1133,  
28 1137 & n.2 (9th Cir. 2002) (assuming without deciding that personal injury statute applies to

1 ADA claim); Douglas v. California Dep't of Youth Authority, 271 F.3d 812, 823 & n. 11 (9th  
2 Cir. 2001), amended on other grounds, 271 F.3d 910 (9th Cir. 2001) (Rehabilitation Act  
3 claim). Thus, any ADA or Rehabilitation Act claim based on events that occurred prior to  
4 August 3, 2007 are also time-barred.

5 As for the claims based on events that occurred after August 3, 2007, which include  
6 the November 12, 2007 notice to pay rent or quit; the November 26, 2007 declaration of  
7 non-compliance with the May 11, 2006 stipulation for entry of judgment and dismissal; the  
8 December 17, 2007 entry of judgment; and the February 19, 2008 stipulation for entry of  
9 judgment, the court lacks subject matter jurisdiction over those claims.

10 With regard to the December 17, 2007 entry of judgment and the February 19, 2008  
11 stipulation for entry of judgment, this court is without jurisdiction to review those claims.

12 See Rooker v. Fidelity Trust Company, 263 U.S. 413 (1923); District of Columbia Court of  
13 Appeals v. Feldman, 460 U.S. 462, 482 (1983). Federal district courts lack subject matter  
14 jurisdiction to review such final state court adjudications or to exclude constitutional claims  
15 that are "inextricably intertwined with the state court's [decision] in a judicial proceeding."  
16 Feldman, 460 U.S. at 483, n.16. This rule applies even if such "inextricably intertwined"  
17 claims were not raised in state court. Id. 483-487 & n.16; see also Olson Farms, Inc. v.  
18 Barbosa, 134 F.3d 933, 937 (9th Cir.1998) (Rooker-Feldman doctrine is jurisdictional).

19 A losing party in state court "is barred from seeking what in substance would be  
20 appellate review of the state judgment in a United States District Court, based on the losing  
21 party's claim that the state judgment itself violates the loser's federal rights." Johnson v.  
22 DeGrandy, 512 U.S. 997, 1005-06 (1994). In addition, the February 19, 2008 stipulation of  
23 judgment and dismissal clearly contemplated a final resolution of the matter, including  
24 resolution of any affirmative defenses that Bridgewater could have brought in connection  
25 with the state court action.

26 The HUD regulations regarding termination of a Section 8 lease agreement provide  
27 that tenancy may be terminated for serious violation of the terms of the lease, "including but  
28 not limited to failure to pay rent;" that eviction notice is given by "a notice to vacate, or a

1 complaint or other initial pleading used under State or local law to commence an eviction  
2 action;" and that "[t]he owner may only evict the tenant from the unit by instituting a court  
3 action." 24 C.F.R. § 982.310(a), (e), (f). Thus, "termination proceedings under Section 8's  
4 existing housing program are left by Congress and HUD to state law" and "the landlord can  
5 institute unlawful detainer proceedings in state court." Gallman v. Pierce, 639 F.Supp. 472,  
6 478 (N.D. Cal. 1986).

7 In unlawful detainer actions under California law, tenants generally may assert legal  
8 or equitable defenses that "directly relate to the issue of possession and which, if  
9 established would result in the tenant's retention of the premises." Green v. Superior Court  
10 of San Francisco, 10 Cal. 3d 616, 633 (1974).

11 Among such defenses are claims of discriminatory and retaliatory evictions, as well  
12 as violations of the Fair Housing Act, all of which are claims Bridgewater has raised in the  
13 present action. See generally id. at 633 (in unlawful detainer action under California law,  
14 tenants may assert legal or equitable defenses that "directly relate to the tenant's retention  
15 of the premises"); Minelian v. Manzella, 215 Cal. App. 3d 457, 465 (1989) (defendant in  
16 unlawful detainer action can raise any affirmative defenses or cross-claims that are relevant  
17 to the right of immediate possession); see also Wasatch Property Management v. Degrade,  
18 35 Cal. 4th 1111, 1117 (2005) (tenant may defend against unlawful detainer action by  
19 asserting that the lessor has not provided proper notice of termination, as required by  
20 statute); Schweiger v. Superior Court, 3 Cal. 3d 507, 517 (1970) (retaliatory eviction  
21 defense permitted in unlawful detainer action); Abstract Investment Co. v. Hutchinson, 204  
22 Cal. App. 2d 242, 247-48 (1962) (tenant properly raised constitutional discrimination claims  
23 as affirmative defenses in unlawful detainer action).

24 Thus, the claims related to the November 12, 2007 notice to pay rent or quit, and the  
25 November 26, 2007 declaration of non-compliance with the May 11, 2006 stipulation for  
26 entry of judgment and dismissal are barred, as those claims could have been raised as  
27 defenses to the unlawful detainer action. Similarly, as strict compliance with notice  
28 conditions is a prerequisite for invoking unlawful detainer hearings, see Saberi v. Bakhtiari,

1 169 Cal. App. 3d 509, 516 (1985); Kwok v. Bergren, 130 Cal. App. 3d 596, 599-600 (1982),  
2 allegations related to a lack of notice requirements or lack of compliance with HUD  
3 regulations and California law could have been raised as defenses at the unlawful detainer  
4 hearing, to the extent that such claims are actionable.<sup>2</sup>

5 Finally, plaintiff cannot state a claim under 18 U.S.C. §§ 241 or 242, as those  
6 statutes, which provide a basis for criminal prosecution, do not provide a private right of  
7 action and cannot form the basis for a civil suit. Aldabe v. Aldabe, 616 F.2d 1089, 1092  
8 (9th Cir. 1980); see also Polk County v. Dodson, 454 U.S. 312, 320-21 & n.9 (1981).

9 **CONCLUSION**

10 In accordance with the foregoing, the court finds that the federal claims must be  
11 dismissed, and that amendment will not cure the deficiencies in those claims. Thus, the  
12 dismissal of the federal claims is with prejudice. The court declines to exercise jurisdiction  
13 over the state law claims, see 28 U.S.C. § 1337(c); Ove v. Gwinn, 264 F.3d 817, 826 (9th  
14 Cir. 2001), and those claims are dismissed without prejudice to refiling in state court.  
15 Accordingly, the action is dismissed.

16 The request for leave to proceed IFP is GRANTED, and no filing fee is due.  
17

18 **IT IS SO ORDERED.**

19 Dated: November 20, 2009



20 PHYLIS J. HAMILTON  
21 United States District Judge  
22  
23  
24  
25  
26  
27

28 <sup>2</sup> The court notes, however, that 42 U.S.C. § 1437, which is entitled "Declaration of  
policy and public housing agency organization," provides no private right of action.

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

SHARON BRIDGEWATER,

Plaintiff,

v.

HAYES VALLEY LIMITED et al,

Defendant.

Case Number: CV09-03551 PJH

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on November 23, 2009, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Sharon Bridgewater  
111 Preda Street  
No. 7  
San Leandro, CA 94577

Dated: November 23, 2009



Richard W. Wicking, Clerk  
By: Nichole Heuerman, Deputy Clerk

**NOTICE TO PAY RENT OR QUIT**

To: Sharon Bridgewater

AND ALL OTHERS IN POSSESSION:

WITHIN FIVE DAYS, after the service on you of this notice, you are hereby required to pay the delinquent rent of the premises herein after described, of which you now hold possession as follows:

\$78.00	From	November 1, 2007	Through	November 30, 2007
\$78.00	From	October 1, 2007	Through	October 31, 2007
\$78.00	From	September 1, 2007	Through	September 30, 2007
\$78.00	From	August 1, 2007	Through	August 31, 2007
\$78.00	From	July 1, 2007	Through	July 31, 2007

Or you are hereby required to deliver up possession of the hereinabove described premises, with five days after service on you of the notice, to HAYES VALLEY LIMITED PARTNERSHIP ("owner"), who/which is authorized to receive the same, or legal proceedings will be instituted against you to declare the forfeiture of the lease or rental agreement under which you occupy the herein below described property and to recover possession of said premises, to recover all rent past due, to recover court cost, attorney fees as permitted by law, and possible additional statutory damages of up to SIX HUNDRED DOLLARS (\$600.00) in accordance with California Code of Civil Procedure Section 1174(b), as a result of your failure to comply with the terms of this notice.

The premises herein referred to is situated in the City of SAN FRANCISCO, County of SAN FRANCISCO, State of California, designated by the number and street as 656 Fell Street 94102

You are further notified that should you fail to remit the above-demanded rent or surrender possession of the above-described premises, the undersigned does elect to declare the forfeiture of your lease or rental agreement under which you hold possession of the above-described premises.

Payment must be made to the owner/agent at the following address: 401 ROSE STREET SAN FRANCISCO, CA 94102

Telephone number for the above-address: 41

Payments made in person shall be delivered to on 4:00 pm on the following days of the week: Monday through Saturday and Sunday. Payments may also be made by appointment only on Saturday and Sunday.

between the hours 9:00 am - 4:00 pm. Payments may also be made by appointment only on Saturday and Sunday.