

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF MONTEREY

People of the State of California,

Plaintiff,

Case No. M77763

v.

RULING

James E. Daly,

FILED

Defendant,

OCT 31 2014

James E. Daly and Rhonda Renee Daly

TERESA A. RISI
CLERK OF THE SUPERIOR COURT
DEPUTY

Real Parties in Interest

Alina Oliver

On Oct. 31, 2014, Real Parties in Interest, James and Rhonda Daly's Motion for Restitution Following Reversal and Interest Theron came on regularly for hearing. John M. Rorabaugh appeared for Real Parties in Interest. Deputy County Counsel William Litt appeared for the Plaintiff. After oral argument, the matter was taken under submission.

Now, at a later time, the court grants the motion for restitution without pre-judgment interest and with post-judgment interest of 3%.

The court's "power to award interest under Code of Civil Procedure section 908 is discretionary and interest may be denied if an award would be inequitable under the circumstances." *Textron Financial Corp. v. National Union Fire Ins. Co.* (2004) 118, Cal.App.4th 1061, 1086 (disapproved on other grounds in *Zhang v. Superior Court* (2013) 57 Cal. 4th 364); *Gunderson v. Wall* (2011) 196 Cal.App.4th 1060, 1066. Mr. Daly's own misconduct in fleeing the country before his criminal trial concluded triggered bail forfeiture in the first instance, and therefore any interest would be inequitable under the circumstances of this case.

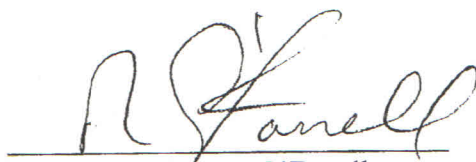
Consistent with the May 30, 2014 appellate court decision, the court vacates forfeiture of

bond and exonerates the \$500,820.00 bond (\$500,000 in principal, \$320.00 in court costs and \$500.00 in attorney fees). Plaintiff is directed to return \$500,820 to Mr. and Ms. Daly within 60 days of the date this order is signed.

IT IS SO ORDERED.

Date:

OCT 31 2014

A handwritten signature in black ink, appearing to read "R. O'Farrell", written over a horizontal line.

Hon. Robert A. O'Farrell
Judge of the Superior Court

CERTIFICATE OF MAILING

Code of Civil Procedure Section 1013(a)

I do hereby certify that I am employed in the County of Monterey. I am over the age of eighteen years and not a party to the within stated cause. I placed true and correct copies of the Ruling for collection and mailing this date following our ordinary business practices. I am readily familiar with the Court's practices for collection and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Services in Salinas, California, in a sealed envelope with postage fully prepaid. The names and addresses of each person to whom notice was mailed is as follows:

John Rorabaugh
801 Parkcenter Drive, Suite 205
Santa Ana, CA 92705

William Litt
Office of County Counsel
168 West Alisal Street, Third Floor
Salinas, CA 93901-2653

Date:

NOV 03 2014

TERESA A. RISI, Clerk of the Superior Court,

_____, Deputy Clerk

Alina Oliver