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13 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA**
14 **UNLIMITED JURISDICTION**

15 WEICHIAO KU and PI-LIEN KUO,)

Case No. 21CV376210

16 Plaintiffs,)

17 v.)

18 HARALD HERCHEN, *et al.*)

19 Defendants.)

Dept.: 20

Judge: Hon. Socrates Manoukian

Hearing Date: December 8, 2022

Hearing Time: 9:00 a.m.

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25 Plaintiffs Weichiao and Pi-Lien Kuo (hereinafter "Plaintiffs") hereby submit the following
26 Separate Statement of Undisputed Material Facts and Supporting Evidence in support of their
27 Opposition to Motion for Summary Judgment, or in the Alternative, Summary Adjudication,
28 pursuant to California Rule of Court 3.1350, as amended January 1, 2016.

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Supporting Statement: Opposing Party's Undisputed Material Facts and Supporting Evidence In Opposition to Motion for Summary Judgment or Adjudication:	Moving Party's Response and Supporting Evidence:
<p>1. Defendant Herchen gave deposition testimony under oath on Thursday October 29, 2020, and Monday September 19, 2022.</p> <p>(Deposition of Harald Herchen, relevant excerpts of which are attached to Declaration of Todd K. Davis, ¶¶ 4-5, Exhibits "A, B".)</p>	
<p>2. Defendant Herchen admitted to giving false testimony under oath.</p> <p>(Deposition of Harald Herchen, relevant excerpts of which are attached to Declaration of Todd K. Davis, ¶ 5 Exhibit "B".)</p>	
<p>3. Decedent Alice Ku's United States passport has not been used or presented at any border crossing since arriving to Taiwan on November 24, 2019.</p> <p>(Declaration of Li Tsung Su, ¶¶ 1-7.)</p>	
<p>4. Taiwanese police and government officials are treating Alice Ku's disappearance as a homicide and have issued a warrant for Defendant Herchen in association with the same.</p> <p>(Declaration of Li Tsung Su, ¶¶ 1-7; Declaration of Yang Chi Lee ¶¶ 1-4.)</p>	

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<p>5. Decedent Alice Ku's financial holdings, bank accounts, credit cards, and the like, have not been accessed or used since the day Decedent left for Taiwan; the last use was at the San Francisco airport on November 23, 2019, the day Decedent and Defendant Herchen departed to Taiwan.</p> <p>(Declaration of George Ku, ¶¶ 15-16.)</p>	
<p>6. None of Decedent's family has seen or heard from her since November 26, 2019 while Decedent was in Taiwan; including her sister Josephine, with whom Decedent texted near daily, even while Decedent was in Taiwan. Their last text exchange occurred November 26, 2019 (California time; November 27, 2019, Taiwan time). Decedent's family believes Alice is dead and that Defendant Herchen caused her death.</p> <p>(Declaration of George Ku, ¶¶ 4, 19-20; Declaration of Yang Chi Lee ¶¶ 1-4.)</p>	
<p>7. Defendant Herchen sent himself an email from Decedent's email account November 29, 2019, impersonating Alice and attempting to cover up her death. The Email was sent <i>from</i> the hotel wifi where Defendant Herchen was staying alone on the night of Decedent Alice Ku's disappearance <i>after</i> Defendant Herchen says he dropped Decedent off at the train station. The IP address of the Email is that of the hotel's Wifi, which is where Alice's email account was logged into the Google Gmail interface.</p> <p>(Declaration of Dr. Tal Lavian, ¶¶ 1-38; Declaration of Yang Chi Lee ¶¶ 1-4.)</p>	
<p>8. Decedent had never been to her parents new home and was not familiar with the</p>	

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<p>area. (Declaration of George Ku, ¶¶ 17.)</p>	
<p>9. After Decedent disappeared, Defendant Herchen did nothing to attempt to find her. However, Defendant boldly lied to George Ku and misrepresented that he had made substantial efforts to locate her. He later admitted that was entirely false. (Deposition of Harald Herchen, relevant excerpts of which are attached to Declaration of Todd K. Davis, §§4-5, Exhibits "A, B;" Declaration of George Ku, ¶¶ 4-13, Exhibit "A.")</p>	
<p>10. After Decedent disappeared, her family undertook, and have continued, a serious and extensive search effort involving both local, national, and international police and government agencies. Even Decedent's friends and tutoring students were concerned about her out-of-character absence. (Declaration of George Ku, ¶¶ 4-14.)</p>	
<p>11. Defendant Herchen lied about this efforts to locate Decedent after her disappearance, initially claiming in an email to Plaintiff that he made substantial efforts, then denying that that email was sent, then finally admitting the email was sent but the contents untrue. He did not make any efforts to find Alice. (Deposition of Harald Herchen, relevant excerpts of which are attached to Declaration of Todd K. Davis, §§4-5, Exhibits "A, B;" Declaration of George Ku, ¶¶ 4-13, Exhibit "A.")</p>	
<p>12. Defendant Herchen admittedly lied</p>	

1 on various occasions to his family, friends, and
2 co-workers, seemingly compulsively, and
3 anytime it was convenient for him.

4 (Deposition of Harald Herchen,
5 relevant excerpts of which are attached
6 to Declaration of Todd K. Davis, §§4-
5, Exhibits "A, B.")

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8 13. Defendant Herchen destroyed
9 relevant evidence in this case.


10 (Deposition of Harald Herchen,
11 relevant excerpts of which are attached
12 to Declaration of Todd K. Davis, §§4-
13 5, Exhibits "A, B";" Declaration of
George Ku, ¶ 18.)

14 14. *After* George Ku had been appointed
15 as Alice's Conservator, *after* this case had been
16 initiated, *after* discovery had been served by
17 Plaintiffs, and *after* his deposition was noticed,
18 Defendant Herchen admits he hacked and then
19 destroyed 4 of Alice's computers, which
prevented Plaintiffs and George Ku from
obtaining potentially *highly* relevant evidence.

20 (Deposition of Harald Herchen,
21 relevant excerpts of which are attached
22 to Declaration of Todd K. Davis, §§4-
23 5, Exhibits "A, B";" Declaration of
George Ku, ¶ 18.)

24 Dated: November 23, 2022

25
26 FARLING, HECHT & DAVIS

27 By: 
28 TODD K. DAVIS
Attorney for Plaintiffs