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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **COUNTY OF LOS ANGELES – STANLEY MOSK COURTHOUSE**

13 3 G.I. CORPORATION, a California  
14 Corporation;

15 Plaintiff,

16 v.

17 CHARLES I. SHEEN; and DOES 1 through 100,  
18 inclusive;

19 Defendants.

Case No. BC643943

**DEFENDANT CHARLES I. SHEEN'S  
NOTICE OF MOTION AND MOTION  
TO AMEND JUDGMENT TO ADD  
ALTER EGO; DECLARATION OF  
STEPHEN BERNARD IN SUPPORT  
THEREOF; DECLARATION OF  
CHARLES I. SHEEN IN SUPPORT  
THEREOF**

**Assigned For All Purposes: Dept. 78  
Judge: Honorable Robert S. Draper**

**Date: June 9, 2021**

**Time: 8:30 a.m.**

**Dept.: 78**

**Reservation No.: 230317906360**

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23 **TO THE HONORABLE JUDGE ROBERT S. DRAPER OF THE LOS ANGELES**  
24 **SUPERIOR COURT, PLAINTIFF 3 G.I. AND ITS COUNSEL,** PLEASE TAKE NOTICE  
25 that on June 9<sup>th</sup> 2021, or as soon thereafter as the matter can be heard, in Department 78 of the  
26 above-entitled court, located at 111 N Hill St. Los Angeles, CA 90012, plaintiff will move the  
27 court for an order pursuant to Code Civ. Proc. § 187, amending nunc pro tunc the judgment  
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1 rendered in this action against Plaintiff 3 G.I. and entered on December 07, 2020 by adding as  
2 judgment debtor Itamar Gelbman. The motion will be made on the grounds that Itamar Gelbman  
3 is the alter ego of Plaintiff 3 G.I., that there is a unity of interests between Itamar Gelbman and  
4 Plaintiff 3 3 G.I. and that recognition of the privilege of separate existence would promote  
5 injustice. Additionally, Plaintiff 3 G.I. no longer exist because Mr. Gelbman dissolved the  
6 company after losing the trial in this case. Plaintiff 3 G.I. never had any assets and was  
7 constantly undercapitalized. Such actions by Mr. Gelbman were designed to frustrate Mr.  
8 Sheen's collection efforts and thwart the effect of the judgment.

9 The motion will be based on this notice of motion, on the attached memorandum of  
10 points and authorities, on the attached declaration of Stephen Bernard, the attached declaration of  
11 Charles I. Sheen, and on all the papers, pleadings, and records on file in this action and such oral  
12 and documentary evidence as may be presented at the hearing of the Motion, and should be  
13 granted because:

- 14 **1) Itamar Gelbman Is The Alter Ego Of 3 G.I. Because There Is A Unity Of Interests;**
- 15 **2) Itamar Gelbman Controlled The Litigation In This Matter; And**
- 16 **3) Recognition Of The Privilege Of Separate Existence Would Promote Injustice.**

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19 BERNARD & BERNARD

20 Date: March 8, 2021

21 By: /s/ Stephen Bernard  
22 STEPHEN BERNARD  
23 JESUS MORALES  
24 Attorneys for Defendant  
25 Charles I. Sheen

1           **I.       INTRODUCTION**

2           This subject proceeding involves post-judgment collection efforts with respect to this  
3 contract/fraud case. At the heart of this case is the alleged service contract for security services  
4 that was purportedly breached by Defendant Mr. Sheen (“Defendant” or “Mr. Sheen”) and for  
5 which Plaintiff 3 G.I. Corporation (“Plaintiff” or “3 G.I.”) sued. Both parties waived jury and  
6 this Honorable Court heard testimony from both defense and plaintiff witnesses over the course  
7 of three days. Plaintiff sued Defendant over an invalid employment contract. Plaintiff  
8 fraudulently hid this invalid contract from Defendant’s attorneys and used his undue influence as  
9 the person responsible for Defendant’s physical safety to have Defendant sign this invalid  
10 contract. The parties had a bench trial in October 2019. Thereafter Defendant made a motion for  
11 Attorneys Fees which was granted. The judgment in this matter was entered against Plaintiff 3  
12 G.I. on December 07, 2020. (See Exhibit A). There is currently outstanding the sum of  
13 \$128,712.20, including interest and costs.

14           3 G.I. remained in existence through the lawsuit, up until the moment that it lost. Once  
15 the court made its Statement of Decision final on April 16, 2020 (See Exhibit B), Plaintiff was  
16 dissolved shortly thereafter on May 04, 2020 by its sole shareholder Mr. Itamar Gelbman. (See  
17 Exhibit E). Now that Defendant has a judgment against 3 G.I., it has ceased to exist. If the court  
18 does not grant this motion, then it would in effect promote injustice and bring about an  
19 inequitable result. It would allow Mr. Gelbman to misrepresent a suit against my Mr. Sheen, and  
20 if he lost, which he did, to escape financial responsibility. The facts concerning 3 G.I. and Mr.  
21 Gelbman are clear, they are one and the same. Itamar Gelbman was in fact the only person  
22 associated with Plaintiff 3 G.I.. Here, 3 G.I. never had any employees, besides Mr. Gelbman,  
23 ever. In addition, 3 G.I. produced no records during litigation that would show that it in fact they  
24 ever operated as an actual corporation. That is because Mr. Gelbman ignored and abused the  
25 corporate formalities to avoid liability for his own personal actions. The Court cannot allow Mr.  
26 Gelbman to promote lies and fraudulent conduct throughout the case and then literally let him off  
27 the hook, a toxic misuse of our system.

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**II. LEGAL FRAMEWORK**

The creditor may file a noticed motion to amend the judgment to add a nonparty alter ego as a judgment debtor, or may apply for an order to show cause why the nonparty alter ego should not be joined as a defendant. (See generally, *Farenbaugh & Son v. Belmont Const., Inc.* (1987) 194 CA3d 1023, 1027-1029, 240 CR 78, 79-80; see also *Wells Fargo Bank, Nat'l Ass'n v. Weinberg* (2014) 227 CA4th 1, 9, 173 CR3d 113, 119—CCP § 187)). It “contemplates a noticed motion” and “trial court is not required to hold an evidentiary hearing.” The court must have jurisdiction over the judgment debtor's alter ego in order to enter a valid judgment against the alter ego. This is normally accomplished by service of process. (See *Milrot v. Stamper Medical Corp.*(1996) 44 CA4th 182, 186, 51 CR2d 424, 426).

Code Civ. Proc. § 187 has often served as the basis for amending a judgment, for example, to add additional judgment debtors pursuant to the alter ego doctrine. The general rule is that "a court may amend its judgment at any time so that the judgment will properly designate the real defendants."(*Dow Jones Co. v. Avenel*, 151 Cal. App. 3d 144, 148-149, 198 Cal. Rptr. 457 (1st Dist. 1984)). (See also, Code Civ. Proc. § 989). Code Civ. Proc. § 187 G.I.ves the trial court the authority to amend a judgment to add additional judgment debtors. The theory underpinning this procedure is that the court is not really amending the judgment but is merely inserting the correct name of the real defendant. (*NEC Electronics Inc. v. Hurt*, 208 Cal. App. 3d 772, 256 Cal. Rptr. 441 (6th Dist. 1989)) (*McClellan v. Northridge Park Townhome Owners Ass'n, Inc.*, 89 Cal. App. 4th 746, 107, 107 Cal. Rptr. 2d 702 (2d Dist. 2001)).

In order for the court to grant the motion, three requirements must be met:

1. The new party must be the alter ego of the old party, and
2. In order to satisfy due process concerns, the new party must have controlled the litigation. Absent such control, the alter ego is a true nonparty. (See *Minton v. Cavaney*, 56 Cal. 2d 576, 15 Cal. Rptr. 641, 364 P.2d 473 (1961), *Jack Farenbaugh*

1 & Son v. Belmont Construction, Inc., 194 Cal. App. 3d 1023, 240 Cal. Rptr. 78 (2d  
2 Dist. 1987); In re Levander, 180 F.3d 1114 (9th Cir. 1999))

- 3 3. Recognition of the privilege of separate existence would promote injustice.  
4 (Relentless Air Racing, LLC v. Airborne Turbine Ltd. Partnership, supra, 222 CA4th  
5 at 816, 166 CR3d at 425; Greenspan v. LADT, LLC (2010) 191 CA4th 486, 511,  
6 121 CR3d 118, 137; see Toho-Towa Co., Ltd. v. Morgan Creek Productions, Inc.,  
7 supra, 217 CA4th at 1109, 159 CR3d at 481)

8 Nonetheless, the judgment creditor should establish by a *preponderance of the*  
9 *evidence* that the alter ego controlled the litigation (e.g., by deposition testimony, declarations  
10 from the judgment creditor, corporate defendant and their attorneys, or testimony from a debtor  
11 examination). (See *Wollersheim v. Church of Scientology Int'l* (1999) 69 CA4th 1012, 1017, 81  
12 CR2d 896, 899-900; compare *Farenbaugh & Son v. Belmont Const., Inc.* (1987) 194 CA3d  
13 1023, 1029, 240 CR 78, 80—“substantial evidence” may support adding alleged alter ego as  
14 judgment debtor). The usual practice is to plead facts showing unity of ownership and the fraud  
15 or injustice that results from the privilege of separate identity. (5 Witkin, California Proc. (4th  
16 ed.), Pleading § 881). Although courts take a liberal approach to pleading the issue ((First  
17 Western Bank & Trust Co. v. Bookasta, 267 Cal. App. 2d 910, 73 Cal. Rptr. 657, 5 U.C.C. Rep.  
18 Serv. 1181 (2d Dist. 1968)).

19 **III. ARGUMENT**

20 **1. Itamar Gelbman Is The Alter Ego Of 3 G.I. Because There Is A Unity Of Interests;**

21 To determine whether there is sufficient “unity of interest” and ownership, the court  
22 considers factors such as (a) the comingling of funds and assets, (b) identical equitable  
23 ownership, (c) use of the same offices and employees, (d) disregard of corporate formalities, (e)  
24 identical directors and officers and (f) use of one as a shell or conduit for the other's affairs.  
25 (*Highland Springs Conference & Training Center v. City of Banning* (2016) 244 CA4th 267,  
26 280-281, 199 CR3d 226, 236), *Baize v. Eastridge Companies*, (2006) 47 Cal.Rptr.3d 763; F.  
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