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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

DON WILLIAMS et al.,

Petitioners,

v.

THE SUPERIOR COURT OF
SAN BERNARDINO COUNTY,

Respondent;

AVTAR S. BANGHU et al.,

Real Parties in Interest.

E063853

(Super.Ct.No. CIVDS1503221)

OPINION

ORIGINAL PROCEEDINGS; petition for writ of mandate. Keith D. Davis,
Judge. Petition is granted.

Silver & Wright, Curtis R. Wright and Ruthann M. Elder, for Petitioners.

No appearance for Respondent.

Law Offices of Yolanda Flores-Burt and Yolanda Flores-Burt for Real Parties in
Interest.

In this matter we have reviewed the petition and the opposition filed by real parties in interest. We have determined that resolution of the matter involves the application of settled principles of law, and that issuance of a peremptory writ in the first instance is therefore appropriate. (*Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171, 178.)

DISCUSSION

First, we reject real parties in interests' claim that the petition is untimely. The precise date of service on petitioners was not established. (Code Civ. Proc., § 1013, subd. (a).)

Secondly, we reject the argument that petitioners made a general appearance because they filed a motion to strike (Code Civ. Proc., § 425.16) *before* the challenge to jurisdiction. (Code Civ. Proc., § 418.10.) The docket shows that both were filed on the same day, and the only reasonable inference is that they were presented for filing at the same time. We decline to place any weight on the fact that the clerk of the court processed the motion to strike before the motion to quash.

On the merits, subdivision (e)(1) of section 418.10 provides that “no act by a party who makes a motion under this section . . . constitutes an appearance” This means what it says; “no act” is expansively construed. (*Air Machine Com SRL v. Superior Court* (2010) 186 Cal.App.4th 414, 420.)

DISPOSITION

Accordingly, the trial court erred in refusing to consider petitioners' motion(s) to quash on the merits, and we will grant the petition in that respect.

Let a peremptory writ of mandate issue, directing the Superior Court of San Bernardino County to vacate its order denying petitioners' motion(s) to quash on the basis that petitioners had made a general appearance, and to proceed to consider the motion(s) on the merits. In all other respects the petition is denied.

Petitioners are directed to prepare and have the peremptory writ of mandate issued, copies served, and the original filed with the clerk of this court, together with proof of service on all parties. Petitioners to recover their costs.

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RAMIREZ

P. J.

We concur:

MILLER

J.

CODRINGTON

J.