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Filing Fees Exempt Per Govt. Code  
Section 6103

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE  
CENTRAL JUSTICE CENTER

JAN 23 2024

DAVID H. YAMASAKI, Clerk of the Court

BY:  DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ORANGE  
CENTRAL JUSTICE CENTER

13 **COREY EIB,**

14 Plaintiff,

15 v.

16 **CALIFORNIA DEPARTMENT OF**  
17 **MOTOR VEHICLES,**

18 Defendant.

Case No. 30-2023-01304399

**ORDER DENYING PETITION FOR  
WRIT OF MANDATE AND  
TERMINATING ACTION**

Dept: C15  
Judge: The Honorable Michael J.  
Strickroth

Action Filed: January 30, 2023

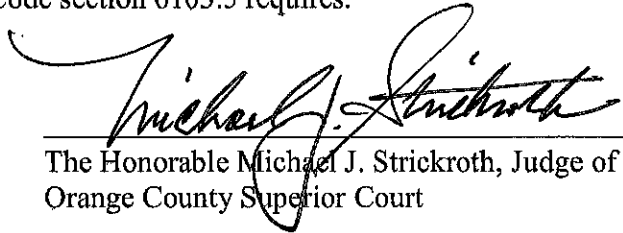
19  
20 On December 8, 2023 at approximately 9:00 a.m. in Department C-15 of the Orange  
21 County Superior Court-Central Justice Center, the court heard oral argument and considered  
22 Petitioner's Petition for Writ of Mandate, Petitioner's Opening and Reply Briefs, and  
23 Respondent's Opposition. Prior to the hearing, the court issued a tentative ruling denying the  
24 Petition for Writ of Mandate. After review and consideration of Petitioner's Opening and Reply  
25 brief, and Respondent's Opposition Brief, and hearing oral arguments from the parties, the court  
26 adopted its tentative ruling and denied the Petition for Writ of Mandate and ordered the action  
27 terminated. The court's ruling denying the Petition for Writ of Mandate is attached hereto as  
28 Attachment 1.

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**IT IS ORDERED, ADJUDGED, AND DECREED** that:

1. The petition for writ of mandate is denied;
2. Petitioner shall take nothing by this action;
3. Judgment shall be entered in favor of Respondent and against Petitioner;
4. the entire action is terminated; and
5. Pursuant to Government Code section 6103.5, Respondent is awarded costs in the amount of \$435.00—the filing fee Respondent would have paid but for Government Code section 6103. The awarded costs shall be remitted to the proper judicial officers of the Orange County Superior Court as Government Code section 6103.5 requires.

Dated: 1/23/2024

  
The Honorable Michael J. Strickroth, Judge of the  
Orange County Superior Court

LA2023301163  
66434139.docx

# ATTACHMENT 1

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE**

Central Justice Center  
700 W. Civic Center Drive  
Santa Ana, CA 92702

**SHORT TITLE:** Eib vs. California Department of Motor Vehicles

**CLERK'S CERTIFICATE OF MAILING/ELECTRONIC SERVICE**

**CASE NUMBER:**  
**30-2023-01304399-CU-WM-CJC**

I certify that I am not a party to this cause. I certify that a true copy of the above dated has been placed for collection and mailing so as to cause it to be mailed in a sealed envelope with postage fully prepaid pursuant to standard court practice and addressed as indicated below. This certification occurred at Santa Ana, California on 12/7/23. Following standard court practice the mailing will occur at Santa Ana, California on 12/7/23.

COREY EIB  
555 N EL CAMINO REAL A158  
SAN CLEMENTE, CA 92672

Clerk of the Court, by:



, Deputy

I certify that I am not a party to this cause. I certify that that the following document(s), dated , was transmitted electronically by an Orange County Superior Court email server on December 7, 2023, at 1:44:16 PM PST. The business mailing address is Orange County Superior Court, 700 Civic Center Dr. W, Santa Ana, California 92701. Pursuant to Code of Civil Procedure section 1013b, I electronically served the document(s) on the persons identified at the email addresses listed below:

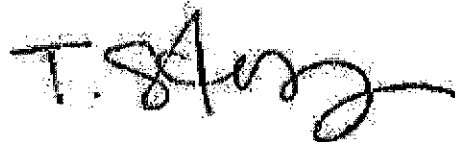
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Clerk of the Court, by:



, Deputy

**CLERK'S CERTIFICATE OF MAILING/ELECTRONIC SERVICE**

**SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF ORANGE  
CENTRAL JUSTICE CENTER**

**MINUTE ORDER**

DATE: 12/07/2023

TIME: 11:12:00 AM

DEPT: C15

JUDICIAL OFFICER PRESIDING: Michael Strickroth

CLERK: T. Stiltz

REPORTER/ERM: None

BAILIFF/COURT ATTENDANT: B. Eschberger

CASE NO: 30-2023-01304399-CU-WM-CJC CASE INIT.DATE: 01/30/2023

CASE TITLE: **Elb vs. California Department of Motor Vehicles**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Writ of Mandate

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EVENT ID/DOCUMENT ID: 74165968

EVENT TYPE: Chambers Work

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**APPEARANCES**

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There are no appearances by any party.

The Court issues a Tentative Ruling which is attached and incorporated herein on the Petition for Writ of Mandamus scheduled for 12/08/2023.

Court orders Clerk to give notice.

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DATE: 12/07/2023

DEPT: C15

MINUTE ORDER

Page 1  
Calendar No.

*Eib v. California Department of Motor Vehicles*  
2023-01304399

Petition for Writ of Mandamus

**Petitioner Corey Eib's Petition for Writ of Mandamus Is DENIED.**

*Code of Civil Procedure* section 1085(a) provides, "(a) A writ of mandate may be issued by any court to any inferior tribunal, corporation, board, or person, to compel the performance of an act which the law specially enjoins, as a duty resulting from an office, trust, or station, or to compel the admission of a party to the use and enjoyment of a right or office to which the party is entitled, and from which the party is unlawfully precluded by that inferior tribunal, corporation, board, or person."

*Code of Civil Procedure* section 1094.5(a) states, "(a) Where the writ is issued for the purpose of inquiring into the validity of any final administrative order or decision made as the result of a proceeding in which by law a hearing is required to be given, evidence is required to be taken, and discretion in the determination of facts is vested in the inferior tribunal, corporation, board, or officer, the case shall be heard by the court sitting without a jury. All or part of the record of the proceedings before the inferior tribunal, corporation, board, or officer may be filed with the petition, may be filed with respondent's points and authorities, or may be ordered to be filed by the court. Except when otherwise prescribed by statute, the cost of preparing the record shall be borne by the petitioner. Where the petitioner has proceeded pursuant to Article 6 (commencing with Section 68630) of Chapter 2 of Title 8 of the Government Code and the Rules of Court implementing that section and where the transcript is necessary to a proper review of the administrative proceedings, the cost of preparing the transcript shall be borne by the respondent. Where the party seeking the writ has proceeded pursuant to Section 1088.5, the administrative record shall be filed as expeditiously as possible, and may be filed with the petition, or by the respondent after payment of the costs by the petitioner, where required, or as otherwise directed by the court. If the expense of preparing all or any part of the record has been borne by the prevailing party, the expense shall be taxable as costs."

Petitioner does not allege an administrative hearing giving rise to relief under *Code of Civil Procedure* section 1094.5. Therefore, the Court reviews the petition under section 1085.

Petitioner seeks the following relief:

- "1. This court issue a writ of mandamus against the California Department of Motor Vehicles ordering the Department to close Petitioner's license account and destroy the license card currently in possession of Petitioner as the Department of Motor Vehicles Stated they did in the Department's letter dated February 16, 2010. (See Attached Exhibit A)
2. Order the California Department of Motor Vehicles to create an administrative process, hearing, or like process where citizens of the State can properly present their withdrawal of consent to participate in the license program." (Petition, 2:10-18.)

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The record reflects Petitioner submitted a request to cancel his driver license in 2010, which was granted. Respondent Department of Motor Vehicles (DMV) states Petitioner submitted a request for a new license in August 2016 and was issued a license in September 2016, which Petitioner renewed in July 2021.

In opposition, the DMV contends it has a mandatory duty to maintain a database of driving records and history of licensed drivers. *Vehicle Code* § 1800 et seq. DMV contends it has no duty to destroy Petitioner's license or remove Petitioner from its database. DMV contends what Petitioner really wants is a court order allowing him to drive as an unlicensed motorist in violation of *Vehicle Code* section 12500.

The Petition is denied because Petitioner has not identified any legal authority, such as a California statute or case law, holding that DMV has a duty to act in the manner requested. Therefore, this Court has no authority to issue the requested order under *Code of Civil Procedure* section 1085.

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