

EXHIBIT 2

STATE OF SOUTH CAROLINA

COUNTY OF Charleston

Cyrus Kamin
 Plaintiff

Harold L. Laitani
 Defendant

2018-CP-10-3288

IN THE 9th JUDICIAL CIRCUIT

~~2018-CP-CASE NO. - 2288~~

2016 CP-10 3990
111 CP-10 5465

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

Motion For Reconsideration
of ORDER H.J. Miller Oct, 13, 18

Plaintiff's Attorney: <u>Cyrus Kamin</u> , Bar No. _____ Address: <u>2601 Canal Avenue</u> <u>N. Charleston, SC 29405</u> phone: <u>843-460-7462</u> fax: _____ e-mail: _____ her: _____	Defendant's Attorney: <u>Alex Sparta III</u> , Bar No. _____ Address: <u>Astley Glessing Drive PMS-21</u> <u>Charleston SC 29414</u> phone: _____ fax: <u>843-460-7462</u> e-mail: <u>Alex.Sparta@comcast.com</u> her: _____
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- MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
- FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
- PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: Motion to Revoke OR

Estimated Time Needed: _____ Court Reporter Needed: YES / NO

SECTION II: Motion/Order Type

- Written motion attached
- Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for Plaintiff / Defendant

Nov, Nov, 26, 18
Date submitted

SECTION III: Motion Fee

PAID - AMOUNT: _____

EXEMPT: (check reason)

- Rule to Show Cause in Child or Spousal Support
- Domestic Abuse or Abuse and Neglect
- Indigent Status State Agency v. Indigent Party
- Sexually Violent Predator Act Post-Conviction Relief
- Motion for Stay in Bankruptcy
- Motion for Publication Motion for Execution (Rule 69, SCRA)
- Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions

Name of Court Reporter: _____

Other: _____

RECEIVED
DEC 12 2018
SC Court of Appeals

JUDGE'S SECTION

- Motion Fee to be paid upon filing of the attached order.
- Other: _____

JUDGE _____

CODE: _____ Date: _____

CLERK'S VERIFICATION

Collected by: _____

Date Filed: _____

- MOTION FEE COLLECTED: _____
- CONTESTED - AMOUNT DUE: _____

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON
PLEAS
NINTH JUDICIAL CIRCUIT

CYRUS KAMINI

Plaintiff

vs.

HEIDEH LARIJANI, et al.

Defendants

CASE NO.: 2016-CP-10-3990, 2016-CP-10-5465, 2018-CP-10-3288

MOTION FOR RECONSIDERATION

2018 NOV 26 AM 9:59
CLERK OF COURT
NINTH JUDICIAL CIRCUIT

TO ALL PARTIES:

YOU WILL PLEASE TAKE NOTICE that Plaintiff Cyrus Kamini, In Pro Per, moves this Honorable Court (Miller, J.) for **Reconsideration** of the Honorable Court's Order dated October 13th, 2018, granting Plaintiff's Motion to Consolidate, Case #'s "3990" & "5465" for purpose of "Trial" and on the Oral Motion of the Plaintiff for Consolidation of "3288", for the purpose of discovery and trial.

The Honorable Court in the same Order joins "Interveners", Rahha Larijani & Chris Khamnei to Cyrus Kamini as Co-Plaintiff's and orders a unified filing to the greatest extent possible, stating the unified claims of the three Co-Plaintiff's.

The Order denied, or otherwise did not address, the following Plaintiff's Motions, properly before the Court on October 22nd, 2018 as follows:

CASE NO. 3990

1. Motion for Judgment on the Pleadings, and Motions for Entry of Default and Default Judgment, (**Defendant never answered Plaintiffs amended complaint, we are in the second year with no answer forthcoming**), each of Plaintiffs Motions citing legal justifications for why the Court should have granted them. The Plaintiff was not afforded the opportunity to be heard on

these Motions. The Order of the Honorable Court nullifies the Plaintiff's legal rights and remedies at law which were available to him with these Motions. If granted, such Motions would have essentially **ended the Case in Plaintiff's favor.**

Plaintiff denies that he did not properly serve Defendant Heideh Larijani with the Complaint and Amended Complaint in this case, or subsequent Pleadings, claims of such are a Sham perpetrated on the Plaintiff and the court by the defense for lack of evidence to proceed on the merits of the case, their course has been one of disparagement, defamation, illegally obtained false testimony, in an attempt to dispossess Plaintiff, spouse and child of their earned rights at the 24 Chalmers Street property, the subject of these pleadings, defendant blatantly and with arrogance and pomp, continues to act with extreme disregard for the law and rights of this Plaintiff.

CASE NO. 5465

1. Motion for Entry of Default and Default Judgment. Defendant Larijani had filed her Answer to Plaintiff's Amended Complaint almost 4 months late, entitling Plaintiff to Judgment. The Court denied these Motions, and Defendant's obligations were "subsumed" into her obligation to respond to a new Consolidated Complaint from all three Co-Plaintiff's.

Plaintiff's interests are not aligned with his Co-Plaintiff's: "Subsumed" means his rights and remedies available to him in these Motions, namely, Judgment in his favor, were "disappeared".

2. Motion to Strike Defendant's Answer to Complaint. Striking the Answer in this Matter would arguably have entitled Plaintiff to Judgment in his favor. The Court denied this Motion.

**WHY THE COURT SHOULD RECONSIDER ITS ORDER OF
NOVEMBER 13, 2018?**

In the Order dated November 13, 2018, Plaintiff is directed to refile and replead his case anew, and with said pleading “subsuming” his own rights and legal remedies, prejudicing the Plaintiff and causing a great loss and burden of action taken in these Cases, from their commencement, and the burden of new expenses to be incurred for further action ordered by the Court in these consolidated cases. The resulting hardship and unnecessary delay as a direct result of the Honorable Court’s Order, burdens the Plaintiff further, and unnecessarily prolongs the remedy at law the Plaintiff is entitled to for his stated Causes of Action. Plaintiff’s additional pending and unheard Motions before the Court-viz- Motion to Compel Discovery, Motion to Compel Mediation, etc. are now also essentially a nullity. Discovery may be conducted at any time before or after the filing of a complaint, SCRCF, 33, 34, 36, 45, 30, therefore the Plaintiff seeks further adjudication and clarification of the Court, and asks the Honorable Court to preserve all discovery motions and materials filed in these cases, and submitted to the Defendant, in the form of Interrogatories, Request for Production, Requests for Admissions, Motion to Compel Mediation, Motion to Compel Depositions, Motion to Deem Facts Admitted, in the above captioned Cases, as opposed to “subsuming” these obligations of Defendant to respond and or provide an affirmative defenses, Plaintiff seeks preservation of all discovery in all captioned cases praying for preservation and such relief from the Honorable Court, as to not further prejudice, or burden the Plaintiff with additional legal fees and costs.

The denial of legal remedies and entitlements, by the Honorable Court, ended the above captioned Cases for the Plaintiff, and is, in result, a **Final Order**, for the purposes of Appeal.

Without an Appeal, Plaintiff may lose the claims in his original pleadings, due to the expiration of certain applicable Statutes of Limitation.

Pursuant to Rule 59(e), SCRPC, Plaintiff Cyrus Kamini, respectfully, and in the interest of judicial economy, and in regard to his V. and XIV. U.S. Constitutional Amendment right to due process, seeks clarification of the Order of November 13, 2018, and a Declaratory Judgment, and a definitive Ruling from the Honorable Court, in this Motion to Reconsider the Order of The Honorable Judge Miller, entered November 13th, 2018, in regard to the captioned cases and issues as follows:

1. Hearing of granting judgment in Plaintiff's favor, for Entry of Default & Default Judgment Motions, in that the Defendant failed to answer all three of Plaintiff's Complaints in the above captioned cases, as Plaintiff is entitled to the Defaults as a matter of law, in these cases. Fraud and misrepresentations of fact on behalf of the Defendant, coupled with gross and blatant disregard for the Rules of Civil Procedure have occurred with the express knowledge of the Defendant and Defendant's Counsel. The Defendant's obligations to respond have been ignored in these Matters, the Defendant and Defendants Counsel have defrauded the Plaintiff and the Court by denying that service was affected, despite numerous servings of the pleadings repeatedly by process servers, Plaintiff's former lawyer and U.S. Postal workers.

Notably a strategy was adopted to gain favor by Defendant in these cases by creating an unfounded and preposterous allegation of Fraud and Forgery as a defense or excuse for Defendant's disregard for the SCRPC and laws governing civil litigation, essentially denying the Plaintiff his rights under due process of law, including the United States Constitution, and the South Carolina Constitution. (See

Exhibit 1: The Order of the Honorable Judge Miller, Dated November 13th and captioned as in this Motion).

Further, the Plaintiff, pursuant to the grounds for Reconsideration spelled out in this Motion, Plaintiff seeks hearings and rulings, and administration of his rights, clarification on matters that the Court did not address, in its scheduled Hearing on the 22nd of October 2018. Plaintiff seeks Declaratory Judgments of the Court, definitive rulings on Plaintiff's motions, set before the Court by Plaintiff as the law provides the forum and the adjudication thereof, grounded in the rules and the law of South Carolina, and for the Court to Reconsider and correct its findings and correct its error based on the record and the law, the Motions before the Court respectively,

See Exhibit 2: appended is the Courts notices certain proof that Plaintiff's motions were scheduled to be heard before the Court, captioned, "NOTICE OF HEARING/JUDGE MILLER/October 22, 10:30/11:30 CHS 9th Circ. Court CHS"

See Exhibit 3: appended is Plaintiff's email to the Honorable Judge Miller, and copy of the attached "PREHEARING MEMORANDA", (and **Exhibit 10 of the Memorandum, see Exhibit 4 of this motion for the other 9 exhibits of the memoranda**) in said email, laying out the facts in the motions to be heard, sent to the Judge prior to the scheduled hearing, the Motions set to be heard are listed as follows, (the motions in **BOLD** being the motions the Plaintiff would like the Court to preserve and uphold for further adjudication):

*** 3990-MOTION FOR JUDGMENT ON THE PLEADINGS**

***3990-MOTION FOR ENTRY OF DEFAULT AND DEFAULT JUDGMENT**

***5465-MOTION FOR ENTRY OF DEFAULT**

*3990-MOTION TO CONDSOLIDATE TRIALS

*3990-MOTION TO ENFORCE SETTLEMENT AGREEMENT

*3990-MOTION REQUESTING A PRETRIAL CONFERENCE

*5465-MOTION TO ENFORCE SETTLEMENT AGREEMENT

*5465 MOTION REQUESTING A PRETRIAL CONFERENCE

*5465 MOTION TO STRIKE DEFENDANTS ANSWER TO COMPLAINT

*5465 MOTION TO CONSOLIDATE TRIALS BY PLAINTIFF

See Exhibit 4: Plaintiff's Post Hearing Memorandum, (and 9 exhibits of the Memorandum, see Exhibit 3 of this Motion for exhibits 10 of the memoranda) sent to the Honorable Judge Miller after the hearing on October, 22nd, 2018, clarifying the factual incidents and instances of the Hearing and Decisions of the Judge.

This Motion for Reconsideration is divided into several sections as set forth below. Each section provides multiple grounds for the Reconsideration of the Court's Order.

1)-MOTIONS PENDING BEFORE THE COURT BUT NOT SCHEDULED TO BE HEARD BY HONORABLE JUDGE MILLER ON 22nd OCTOBER, IN PENDING HEARING AND ADJUDICATION:

1.1)-2018-CP-10-3288---Motion for Entry of Default & Default Judgment--- see **Exhibit 5**

Plaintiff's case filed for Partition 2018-CP-10-3288, has an "Amended Motion for Entry of Default and Default Judgment" that is before the Court of Honorable Judge McCoy, is pending her decision and adjudication, by The Honorable Judge McCoy, who after hearing of Plaintiff's original Motion for Default, heard on 9/27/2018, cited defects in the Plaintiff's Motion and granted Plaintiff leave of Court to amend the above captioned motion, Plaintiff having amended, has pursuant to SCRCP 55, refiled an amended pleading which is pending a rehearing of this default Motion in the above captioned case, service of the Defendant has been achieved and proper, with proof thereof provided for in **Exhibit 5** (Mr. Alex Sparra Esq., is not the Defendant Heideh Larijani's lawyer in this Matter and has never appeared, has no authority to represent the Defendant in this matter, service of a lawyer who has not entered an appearance is contrary to the SCRCP, and not required of Plaintiff.

1.2)-2016-CP-10-3990---Motion to Compel Mediation---see **Exhibit 6**, Plaintiff's lawyer Tyson Nettles submitted a Motion to Compel Mediation, to date the Defendant has failed to show up for a Mediation Conference held on January 16, 2018. Defendant has rejected the outcome of the Mediation Conference and its result, though the terms of which had been previously agreed upon in negotiations between Plaintiff and Defendant's then Guardian Chris Khamnei, on February 23rd, 2017.

1.3)-2018-CP-10-3288---MOTION TO COMPEL ANSWER TO PLAINTIFF'S FIRST SET OF INTEROGATORIES AND DEPOSITION ---see **Exhibit 7**

1.4)-2018-CP-103288---MOTION TO DEEM FACTS ADMITTED AND AUTHENTICITY OF DOCUMENTATION ----see **Exhibit 8**

2)-FALSE CLAIMS OF LACK OF SERVICE: The Plaintiff respectfully stands in opposition to any ruling, contrary to the facts of these Cases' procedural history, i.e. - that service was improper, or non-existent, in the service of Plaintiff's pleadings. In the following exhibit I give one example of an email from Reynolds Blankenship Esq., confirming that he hand delivered the amended complaint to Warren Westbrook Wills Esq., (defendants council at the time), preposterous that Alex Sparra Esq., would even state in the court that service never occurred. **See Exhibit 9,**

****See Exhibit 9.1** Affidavit of Service

****See Exhibit 9.2** Notice of Hearing Proof of Service

3)-**VIOLATIONS OF PLAINTIFF'S RIGHT TO DUE PROCESS OF LAW:** it is a direct violation of the 5th Amendment Right to Due Process of Law not to be heard, further it is the Plaintiff's right to Default of Defendant as provided for by SCRCP 55, and both the Plaintiff's Default Motions, scheduled to be heard on October, 22nd 2018 by the Honorable Judge Miller, should be heard and adjudicated in the Plaintiff's favor in that service was proper in the chain of service, the Default of the Defendant was of a long term nature, and the Default is perfected and demonstrated by the actions of Defendant during time of Default in the form of pleadings and actions of the Defendant by her then lawyer Warren Westbrook Wills, during the time the Defendant was in Default, demonstrates and serves as "self-validating-proofs", that the Default of the Defendant was blatant and intentional in that it was not addressed as other remedies such as fabricating, and presenting falsified evidence in Order to gain unfair advantage over Plaintiff by creating a criminal element to these proceedings, and employing fraud and deception to achieve an advantage in a civil proceeding,

4)-2016-CP-10-5465 & 3990---Motion for Entry of Default & Default Judgment--

These Default Motions of Plaintiff on “5465” and “3990” should survive the Honorable Judge Miller’s Order, and be granted in the Plaintiff’s favor, the denial of the hearing of these Motions and oral arguments and presentation of the strict proofs of Default of Defendant are of such a final nature, that denial of such and dismissals by “subsuming” consummates a Finality in that the Order of the Honorable Judge Miller’s Order of November, 13th, 2018, and in itself ends the cases, in that the very Order dictates that the pleadings start anew and in subsumption, therefore the Order of the Court as Final in effect, substance and nature, for the purposes of Appeal.

5)-CONFLICTING CLAIMS OF CO-PLAINTIFFS PERFECTED IN 2018-CP-10-3228

The Plaintiff is in opposition to subsuming his rights in Case No. 3288, such a ruling is problematic and would not be in accord with The Honorable Judge’s ruling in the same Order, and seemingly in conflict of the two Decisions in the same Order of the Honorable Judge Miller, in that the “subsumption” and “refiling of conflicting claims” portion of the Order are contradictory, causing internal tension in the Order, in that the Order states that the conflicting claims of the Co-Plaintiff’s shall be filed under the original caption(s) of filing, the entire original Complaint in No. 3288 should survive the Hearing, in that the entire cause of action and remedy requested therein have been and are in conflict with Co-Plaintiff’s interests, as is eloquently pleaded in their answers and cross claims. In this, the Plaintiff Cyrus Kamini, in the interest of judicial economy and Plaintiff’s constitutional rights and remedies at law pleads the Honorable Court, order that these conflicting pleadings and their answers satisfy the Judge’s Order to “replead Conflicting issues” on original case

caption of filing, remain intact, and that the Defendants' (now co-Plaintiffs'), answers, and cross claims of 3288 are in accordance with the Order and shall be deemed to satisfy and survive the Order of the Court and be allowed to continue as a Case for Partition under No. 3288 and be Ordered and deemed to satisfy the "conflicting claims", portion of the Honorable Judge Miller's Order in this matter.

Essentially, Plaintiff is asking the Court to Reconsider the portion of its Order subsuming No. 3288 and allow the original No. 3288 to go forward in Plaintiff's name.

Conclusively, Plaintiff's Motions for Entry of Default and Default Judgment, before the Court on October, 22nd, the Honorable Judge Miller presiding, were not adjudicated by Hearing on the Merits and Arguments of the Motions, but were destined by his Honor to be "subsumed", as the Court directed a unified pleading across all three extant cases, by filed by all three now "Co-Plaintiffs", notwithstanding that their goals in litigating are aligned.

Plaintiff seeks clarification from the Court in that a plain reading of Webster's Dictionary Definition of Subsume: " Definition of subsume-- to include or place within something larger or more comprehensive : encompass as a subordinate or component element", is multifaceted and has more than one meaning, and can be interpreted to engender Honorable Court's recognition of the fact that the Plaintiff will be prejudiced in his rights to have his properly served and valid Motions for Entry of Default and Default Judgment heard by the Court, and adjudicated in the interests of Justice.

The irregularity in the Proceeding is apparent in that the Plaintiff did not have the opportunity to fully present his arguments for his Motions before the Court, and the untruthful statements to the Court, e.g., the Defendant's lawyer Alex Sparra

made in open Court, that he had not been served the Motions and Pleadings, were false and in fact unsupported. The Plaintiff possessed the proof of service and was prepared to present said proof to the Court, but was denied that opportunity, potentially an abuse of discretion, in that Plaintiff was prevented from having a fair Hearing on the issue of the Default of Defendant in No. 2016-CP-10-3990.

The misconduct of Defendant's Counsel, in making statements of non-service and defamatory claims of collusion and criminal conduct, Plaintiff avers, unduly influenced the Court during the Hearing. Plaintiff, the very next day, went to Alex Sparra's office with the original United States Return Receipt and got confirmation from his staff and the actual party who signed the green card, along with a representation that in fact she was Alex Sparra's agent in good standing, had signed for the documents, and received them on behalf of Alex Sparra. Alex Sparra caused newly discovered evidence, material for the Plaintiff making the application, which he could not with reasonable diligence have discovered and produced at the hearing, strict proof that Alex Sparra misreported the facts regarding service and receipt of motions and pleadings to the Court.

There is no evidence or reasonable inference from the evidence to justify the verdict or the decision of the Court not to hear Plaintiff's motions, and that it is contrary to law; and violated the Plaintiff's right to be heard, in the proper forum to be heard, as protected and guaranteed by Constitutional rights, in this a substantial injustice has been done.

In light of the fact that a Judgment in the favor of the Plaintiff would of ended the case, and the fact that an Order constructively dismisses all he pleadings of the Plaintiff by repleading and "subsumption", in fact has Finality and ends the cases for the Plaintiff and has the effect of being dismissed with Prejudice, making the

Judge's Order Final, and as a result the Plaintiff asks the Honorable Court for a Judgment to Stay the Order entered November 13, 2018, pending adjudication of this Motion. (See Rule 62(b), SCRCF)

The Plaintiff seeks Declaratory Judgment, and statutory remedy for the determination of a Justiciable Controversy where the Plaintiff is in doubt as to his legal rights, as being subsumed, constructively dismissed by, or circumvented in the Judge's Order of November 13th, 2018, and seeks a binding adjudication of the rights and status of his Motions for Default and Default Judgment on the merits where Plaintiff feels that no consequential relief was awarded and Plaintiff feels he was entitled to this by law and is prejudiced and economically disadvantaged by the Court's Order.

MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR RECONSIDERATION

Plaintiff posits the following Authorities, in support of his Motion:

Elam v. South Carolina Dep't. of Transp., 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004)

"A party must file such a motion when an issue or argument has been raised, but not ruled on, to preserve it for appellate review."

A Party has a choice to appeal or file a Rule 59(e) motion to ask for Reconsideration. *Elam*, 361 S.C. at 24-25 and n.1, 602 S.E.2d at 780-781 and n.1.

A timely Rule 59(e) motion tolls the time to appeal. Rule 203(b)(1), SCACR.

Pye v. Estate of Fox, 369 S.C. 555, 565-566, 633 S.E.2d 505, 510-511 (2006) (holding that a second Rule 59(e) motion is not required if the trial judge fails to rule on an issue properly raised by a Rule 59(e) motion).

The Court stated: "when an issue presented to the circuit Court in a civil case is not explicitly ruled upon in the final Order, the issue must be raised by an

appropriate post-trial motion to be preserved for appellate review.”) Further “[a] party cannot use Rule 59(e) to present to the Court an issue the party could have raised prior to judgment but did not.”

“Once the issue has been properly raised by a Rule 59(e) motion, it appears that it is preserved and a second motion is not required if the trial Court does not specifically rule on the issue so raised.” *Coward Hund Const. Co., Inc. v. Ball Corp.*, 336 S.C. 1,518 S.E.2d 56, 58 (Ct.App. 1999)

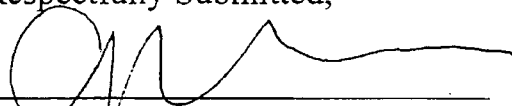
“The raised to and ruled on rule of error preservation requires only a ruling, not necessarily a favorable one.” *Eubank v. Eubank*, 347 S.C. 367, 555 S.E.2d 413, 418, n.2 (Ct.App. 2001).

CONCLUSION

For all of the above reasons, Plaintiff/Movant Cyrus Kamini hereby respectfully requests the Court Reconsider its Order of November 13, 2018, and grant the relief requested in Plaintiff’s Motions, or vacate its Order, and re-set a new Hearing date for all of Plaintiff’s pending Motions in Case Nos. 5465, 3990, and 3288.

Further, Plaintiff respectfully requests Stay its Order entered on November 13, 2018, pending a ruling on the instant Motion.

Respectfully Submitted,


Cyrus Kamini, Plaintiff, Pro-Se
2601 Carner Avenue
N. Charleston Avenue
N. Charleston, SC 29405
843.460.7462

NOV 26TH 18

Exhibits to Motion

to reconsider imaged
and filed w/ motion

under case # 2014-CP-10-3990

EXHIBIT 3



Cyrus Kamini <cyrus.kamni907@gmail.com>

Input on Motion to Reconsider

1 message

Miller, Edward W. Law Clerk (Mary Grace Carey) <emillerlc@sccourts.org>

Thu, Nov 29, 2018 at 9:58 AM

To: Alex Sparra <alex.sparra@gmail.com>

Cc: Seth Whitaker <seth@whitakerltdco.com>, Cyrus Kamini <cyrus.kamni907@gmail.com>, Frank Barnwell <frankbarnwell@yahoo.com>, Rahha Larijani <rahha12@gmail.com>, "Miller, Edward W." <emillerj@sccourts.org>

Dear Mr. Sparra,

I am writing to ask if you have any input on Mr. Kamini's recent motion to reconsider. Please note that I have CC'd Mr. Kamini, as well as all other relevant parties, on this correspondence.

Thank you.

Mary Grace Carey

Law Clerk to the Honorable Edward W. Miller

305 E. North Street, Suite 219

Greenville, South Carolina 29601

(864) 467-8558

(864)- 233-4173 Fax

emillerlc@sccourts.org

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