

No. 19-359

IN THE SUPREME COURT OF THE UNITED STATES

THE LAW OFFICES OF NINA RINGGOLD
AND ALL CURRENT CLIENTS THEREOF
on their own behalves and all similarly
situated persons,
Petitioners,

_____◆_____

On Petition For Writ Of Mandamus To The
United States Court Of Appeals For The Ninth Circuit And To A Lower
Court Judge Acting As A Single-Judge District Court

_____◆_____

EMERGENCY APPLICATION FOR STAY AND INJUNCTION PENDING
DISPOSITION OF PETITION FOR WRIT OF MANDAMUS; PENDING
FILING AND DISPOSITION OF RELATED PETITIONS FOR WRIT OF
CERTIORARI; AND FOR ISSUANCE OF A CERTIFICATE OF NECESSITY BY
THE CIRCUIT JUSTICE

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**TO THE HONORABLE ELENA KAGAN, ASSOCIATE JUSTICE OF
THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT
JUSTICE FOR THE NINTH CIRCUIT:**

The joint applicants named herein file this emergency application for stay and injunction pending disposition of the pending petition for writ of mandamus; and for stay and injunction pending filing and disposition of related petitions for writ of certiorari.¹ They also request that The Honorable Elena Kagan as the Associate Justice of the Supreme Court and Circuit Justice for the Ninth Circuit present a certificate of necessity to the Chief Justice for an intercircuit assignment under 28 U.S.C. § 292, 28 U.S.C. §294², or under appropriate provision under Chapter 13 of Title 28 of the United States Code (1) to properly convene the required three-judge court, and (2) to address the cases from the State of California that are raising challenges to the provision of a statute commonly known as Section 5 of California Senate Bill x211 (“section 5 of SBX2 11”)³.

Applicants are racial and language minorities from the State of California who claim that section 5 of SBX2 11 commands an involuntary waiver of rights under the United States Constitution. They also claim that the uncodified statutory provision is unconstitutional and is in direct conflict with the Supremacy Clause and Section 1 of the Civil Rights Act of 1866 and federal law pertaining to racial equality. Applicants are members of the

¹ See Attachment 1 to this application and Appendix (“App.” 1 & 2).

² App. 1.153-4.

³ App.1.28, 2.179.

proposed representative class in a voting rights case at issue in the petition for writ of mandamus and have claims that relate to the pending petition for writ of certiorari. (App. 1 & 2). In part the applicants claim that there is an existing condition that causes a vacancy of judicial office and they are seeking to develop procedure to implement a monitored special judicial election in that comply with the Voting Rights Act of 1965 as amended.⁴ Each applicant requests a stay and/or injunction because they are being subjected to serious retaliation, intimidation and coercion, blacklisting, and hardship in violation of their constitutional rights under the First, Fourteenth, and Fifteenth Amendment rights; in violation of the Civil Rights Act of 1866; and the Voting Rights Act. The requested relief allows the applicants to presented their legal views and claims with dignity and respect and without further harm and before a properly convened three-judge court outside the State of California. The applicants are and have been requesting the appointment of a public trustee from the office of the Inspector General due to serious unwaivable conflicts of interests of the highest law enforcement officers of the State of California. (See App. 1.38-40, 1.123-1.131). Also, such appointment is requested due to the failure to respond to the California Commission on Judicial Performance's confidential requests for legal opinion from the Office of Attorney General

⁴ See Second Amended Class Action Complaint at App. 15. The claims asserted include: (1) Declaratory, Injunctive, and Equitable Relief (28 U.S.C. § 2201-2202); (2) Violation of the Public Trust Doctrine; (3) Constitutional Vacancy of Office and Special Election in Local Districts Existing Prior to State Trial Court Unification, Declaratory and Equitable relief under the Voting Rights Act of 1965 as Amended, Fourteenth and Fifteenth Amendment; (4) Violation of Title II of the ADA; (5) Violation of 504 of the Rehabilitation Act; (6) Violation of 42 U.S.C. § 1981, 1982, 1983, 1985, 1986; (7) Violation of the California Political Reform Act and Whistleblower Protection Act and other related state law claims.

that has remained unanswered for over 10 years. (See App. 4 & 5 opinions of the Commission and request for opinion from the Office of the Attorney General while Jerry Brown (“Brown”) and Kamala Harris (“Harris”) were state attorney generals for California).

◆

PARTIES TO THE PROCEEDINGS

The applicants are The Law Office of Nina Ringgold; Nina Ringgold, Esq.; All Current Clients of the Law Office of Nina Ringgold; Nina Ringgold as named Trustee of the Aubry Family Trust and named Executor under the will of Robert Aubry; Justin Ringgold-Lockhart (individual and fiduciary capacity); Ali Tazhibi; Ali Tazhibi dba ASAP Copy and Print; Ali Tazhibi; Azita Daryaram; Masih Tazhibi; Matin Tazhibi; ASAP Services, Inc; Nathalee Evans Barnett (individual and fiduciary); and Karim Shabazz.

The respondents are the following: Jerry Brown former Governor of the State of California (1975 to 1983, 2011-2019) and former Attorney General (2007-2011); Kamala Harris former Attorney General of the State of California (2011-2017), and Attorney General during the entirety of the underlying proceedings. The action was filed against Jerry Brown and Kamala Harris in their individual and official capacities. They continue as parties in their individual capacities. The current Governor of the State of California is Gavin Newsom (2019) and the current Attorney General of the State of California is Xavier Becerra (2017). As to the official capacity actions

against the Office of the Governor and the State Attorney General Gavin Newsom and Xavier Becerra have been automatically substituted into the proceedings. The court may enter a substitution order at any time.

Fed.R.Civ.P. 25 (d).

The remaining respondents are the Commission on Judicial Performance of the State of California as a state agency and constitutional entity; and Elaine Howle in her individual capacity and official capacity as California State Auditor (2000-to present date).



OPINIONS BELOW

The voting rights case was filed in 2012 prior to this court’s decision in Shelby County, Ala. v. Holder, 570 U.S. 529 (2013). Petitioners requested appointment of a three-judge court. The assigned judge would not rule on the request and entered an order striking the renewed made in 2016. The judge completely disregarded this court’s precedent in Shapiro v. McManus, 136 S.Ct. 450 (2015) and Stratton v. St. Louis Southwestern Ry. Co., 282 U.S. 10 (1930). The Ninth Circuit’s decision dated April 30, 2019 erroneously specified that the “district court did not err in denying plaintiffs’ motion for a three-judge panel” (App. 1.70). No motion was ever denied. The district court continued to persist in refusal to comply with the plain language of 28 U.S.C. § 2284 and shortly following the election of Kamala Harris to the United States Senate entered an judgment of

dismissal.⁵ Applicants claim that all of the orders entered by the judge are void based on the refusal to comply with the provisions of 28 U.S.C. § 2284. Additionally, they claim the judge failed to disclose that he had a financial and general interest in the claims pled in the complaints filed. The Ninth Circuit was without jurisdiction because it could not substitute a decree of a single judge and an appeal for a decree by a three judges and direct appeal to this court. Stratton at 16. The Ninth Circuit ordered that no further filings could be made after entry of its judgment thereby preventing an application for a stay and injunction in that court. However, as shown by the appendix, the applicants have sufficiently sought the relief in the lower court and have been prevented from seeking a preliminary injunction and orders to prohibit the retaliation encountered. (i.e. See App. 6-9, 13-14, 16, 18-20, 22-23-31). The lower court's refusal to comply with the requirement of this court's precedent and 28 U.S.C. § 2284 has left the petitioners without an ability to present their voting rights claims to the three-judge court as mandated by law while forcing the them to be repeatedly subjected to serious retaliation and harm. Therefore the petitioners seek relief by the petition for writ of mandamus.

The related petition of writ of certiorari, also pending in this court, involves one of the lead members of the voting case. (App. 2). This case

⁵ It was this General Election in which the voting rights case was attempting to implement a special judicial election in compliance with the Voting Rights Act.

provides a clear example of the type of serious retaliation and harm encountered by voting rights members in the state court. The entirety of the proceedings and the decision of the California Court of Appeal for the Second District violate 28 U.S.C. § 1446 (d) because there was not a remand order federal court to the state court of appeal. The opinion of the California Court of Appeal Second Appellate District is dated January 23, 2019. The decision allows levies against the bank accounts of Ali Tazhibi and his family that exceed 100% of disposable income in violation of 15 U.S.C. § 1673 and awarded attorney fees to an entity that had not been made a party to the proceeding and was not an assignee of a judgment or an assignee of record. (App. 2.280-282 CCP § 681.020, CCP § 673). The authoring justice of the decision was the former attorney for litigant justices of the second appellate district (former or current) who had filed cases that compete with the voting rights case.

Applicant and petitioners have sought a stay and injunction including in the Ninth Circuit and the state court. The harm could have been avoided by compliance with the mandatory requirements under the Voting Rights Act, 28 U.S.C. § 2284, and the First Amendment. Having exhausted all avenues in the lower court petitioners now request relief from the Justice of this Circuit.

◆

JURISDICTION

Jurisdiction exists for this emergency application for stay and injunction pursuant to 28 U.S.C. § 1651 and 28 U.S.C. § 2101 (f).

Jurisdiction exists for the Circuit Justice for the Ninth Circuit to present a certificate of necessity to the Chief Justice of the United States to enable designation and temporary assignment of a district judge of one circuit to serve in another circuit exists pursuant to 28 U.S.C. § 292 and 28 U.S.C. § 294.

◆

CONSTITUTIONAL AND STATUORY PROVISIONS INVOLVED

The All Writs Act, 28 U.S.C. § 1651 (a) provides in pertinent part that “[t]he Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.”

◆

GENERAL BACKGROUND

A. Historical Background.⁶

In 1988 Hispanics in the county filed a voting rights action seeking to redraw the district for the Los Angeles County Board of Supervisors. They claimed that the boundaries were gerrymandered to dilute Hispanic voting strength. In 1990 a federal decree was entered against the county finding intentional discriminatory vote dilution. Garza v. County of Los Angeles, 918 F.2d 763 (9th Cir. 1990). As a result the County of Los Angeles was subject to a federal consent decree and the bail-in mechanism of Section 3(c) of the Voting Rights Act.⁷

Also in 1988 California voters overwhelmingly passed proposition 97, a legislative constitutional amendment, to permit judges of the courts of record to accept part-time teaching positions. The ballot pamphlet expressly informed voters that public employment of a judge of the courts of record was prohibited and a constitutional amendment was needed to allow this limited exception for part time teaching. Two days after the election, counsel for the County of Los Angeles, provided a secret legal opinion the judge of the courts

⁶ The historical background is discussed in detail in the petition. (App. 1).

⁷ Alameda County is also subject to Section 3 (c). Prior to Shelby there were at least 17 cases, primarily counties, subject to the bail-in provision of Section 3 (c). The following counties in the State of California were governed under Section 5 of the Voting Rights Act: Kings County, Monterey County, and Yuba County.

of record that they could remain county employees and officials in direct conflict with the plain language of the state constitution and the constitutional amendment just passed by California voters.

California Government Code §53200.3 allowed public employment and office of judges of the courts of record by a county but in 2008 this provision was deemed unconstitutional. (App. 1.159). Thereafter uncodified Section 5 of SBX2 11 was enacted in 2009. (App. 1.28). The California Commission on Judicial Performance twice specified that the provision was unconstitutional and confidentially provided its opinion to the highest law enforcement officers of the state. (Brown and Harris). (App. 4 & 5). They did nothing.

California Constitution Art. VI §17 expressly mandates that acceptance of public employment or office results in a self-effectuating constitutional resignation of a judge of a court of record.⁸ Upon acceptance of public employment and/or office, a judge of a court of record must provide disclosure and obtain the consent of the court user before s/he can act as a judge pro tempore. Cal. Const. Art. §21. (App. 1.158).

B. Pertinent Procedural Background And Prior Requests For Stay And Injunction In The Lower Court

Throughout the entire period the voting rights case proceeded before Judge John A. Mendez he did not disclose that he was a former state court judge in one of the counties identified in the complaint and had financial and

⁸ See CJEO Formal Opinion 2017-011 Judicial Service On A Nonprofit Charter School Board, Opinion of the California Supreme Court Committee on Judicial Ethics (2017); Cal. Attorney General Opn 83-607, 66 Cal. Attorney General 440; Alex v. County of Los Angeles, 35 Cal. App.3d 994 (Cal. 1973), Abbott v. McNutt, 218 Cal. 225 (Cal. 1933).

general interests in the case. This includes but is not limited to interests in former or current benefit plans, the financial fines and penalties requested for the benefit of the class based on failure to comply with mandatory disclosure and reporting requirements under the California Political Reform Act, the request for publication of the opinions of the Commission of Judicial Performance on its website, the selection of the special counsel to act as public trustee and to render the requested response to the opinions of the Commission on Judicial Performance). (App. 1.51-54, 15.389 ¶ 4, 15.460).

Petitioners exhausted every means possible to obtain the necessary stay and injunction to effectively pursue the claims specified in the complaint and to obtain the required appointment of a three-judge court. Without mandatory compliance with 28 U.S.C. § 2284 petitioners were barred the right to pursue a preliminary injunction as a group and were intentionally trapped in state court proceedings where they targeted for retaliation based on their views, their attempts to implement a special judicial election in compliance with the Voting Rights Act, and their objections to Section 5 of SB x211 and forced involuntary waiver of federal rights. Prior to filing this petition for writ mandamus the Ninth Circuit's order specified that no further filings could be made, thus prohibiting a new request for stay and injunction just prior to proceeding in this court. (App. 3.283-285). However, without doubt, the record demonstrates that petitioners first sought relief in the appropriate court or courts below in compliance with Supreme Court Rule

23. (See App. 6-9, 14, 18-19, 23, 30-31, 35-36, 39, 40). Petitioners are requesting a stay and injunction with respect to the cases specified in the attachment to this application and proposed order submitted.

The voting rights case was filed on March 21, 2012 when there were tremendous grievances and claims of discrimination, courthouses were being shutdown, and court reporting services were being terminated. (See App. 15.405-406 ¶¶37-38).

On July 25, 2012 the denied an unopposed ex parte application for temporary restraining order. (App. 6.309-310). No assignment was made to a three-judge court. Petitioners filed an appeal and their request for stay in the district court was denied as moot. (App. 7.311-312). In the Ninth Circuit their request for relief by writ of mandamus was denied (App. 8.313-315) and their emergency motion for stay and injunction during the appeal was denied (App. 9.316-317). The appeal was dismissed for lack of jurisdiction. (App. 10.318-319).

By January 2012 a three-judge court had not been appointed. In mid-January 2012 petitioners filed a petition for writ of certiorari regarding the July 25, 2012 order denying injunctive relief. Almost simultaneously, the petitioners with cases pending in the state court also filed a petition for writ of certiorari concerning those proceedings.⁹

⁹ In the underlying state court proceedings most members of the voting rights case filed notices of lack of jurisdiction and refusal to consent whether or not mandatory disclosures required by California Constitution Article VI §§ 17, 21 were provided, of their refusal to involuntarily waive rights under federal law and the United States Constitution under

After the petitions for writ of certiorari were docketed, without assigning a three-judge court, Judge Mendez entered a January 23, 2012 order entitled “order dismissing case for lack of jurisdiction” and a judgment (which did not specify that it was a partial judgment).¹⁰ He imposed sanctions and made no ruling on the petitioner’s cross-motion for sanctions.¹¹ He, in essence, imposed an injunction against a segment of plaintiffs (when no motion for injunction had been filed in accord with the rules of civil procedure against any plaintiff). In their motions to dismiss respondents argued that the court lacked subject matter jurisdiction because a segment of the plaintiffs were “vexatious litigants”. This argument was made even though it is inconceivable that a federal court could lack subject matter jurisdiction over a case under the Voting Rights Act, Brown and Harris were aware that a three-judge court was required, and they were aware that the referenced order of Judge Manuel Real in a different district had nothing to do with

Section 5 of SB x211, and notice of the existence of the voting rights case. They requested that their cases be dismissed with an equitable tolling order because they were never provided notice of the unconstitutional condition or forced waivers and their claim they were being subject to retaliation. They moved to disqualify the judge subject to constitutional resignation and requested that the chair of the California Judicial Council assign a judge to determine the motion under the procedures of CCP § 170.3 (c)(5). The judges struck the disqualification statements and each adversely impacted party filed the mandatorily required writ of mandate in order to preserve their due process claims of judicial bias. See People v. Chatman, 28 Cal.4th 344, 362-363 (Cal. 2006). To the present day there has never been an adjudication on the merits of the position of the petitioners. The summary denial of a writ of mandate is not an adjudication on the merits or law of the case. See Kowis v. Howard, 3 Cal.4th 888, 891 (Cal. 1992).

¹⁰ Of course this would give the impression in this court (after the petitions for docketed and pending) that there had been a final adjudication on the merits an possible subsequent review in this court.

¹¹ App. 11.320-333, 12,334-335)(See also USDC (Cal) 12-cv-00717 Dkt Nos. 52-54.

voting rights claims or the majority of persons involved in the voting rights case.¹² Also, the order had nothing to do with the rules and procedures applicable to the United States District Court for the Eastern District of California.¹³ Instead of initiating referral to convene the mandatorily required three-judge court, without jurisdiction the judge basically made an improper out of district reference to a judge in a different district as to a segment of the plaintiffs prohibited under 28 U.S.C. § 2284 (b)(3) and ignored the request and the mandatory requirement for appointment of a three-judge court as to all of the plaintiffs.

On in, 2013 petitioners filed an ex parte application for stay pending disposition of the pending petitions for writ of certiorari, for reconsideration and/or to vacate, and for stay. (App.13.335-378). Although a request for stay was properly first filed prior to seeking a stay in the Supreme Court, on February 8, 2013 the judge denied the relief sought by the motion and imposed sanctions for requesting this relief. (App. 14.379-384).¹⁴ The orders entered required the filing of a Second Amended Complaint although no order had identified any adequacy of the causes of action specified in the complaint. The second amended complaint filed on February 13, 2013 requested the appointment three-judge court and a public trustee due to the

¹² See App. 13.357¶1-358, 16.516-522, 16.528-534, 16.568-578, 17.580-583; USDC (Cal) 12-cv-00717 Dkt No. 20.

¹³ See USCA 9th Cir. No. 17-16269 (Opn Brief p. 23-24, 47-60), See also 28 U.S.C. § 2284 (b)(3)(a single judge may not enter orders that are not permitted by the rules of civil procedure and any action of a single judge may be reviewed by the full 3-judge court).

¹⁴ The Ninth Circuit reversed this sanction order. App. 5

conflicting interests of the office of the attorney general. (See App. 1 .123-131, App. 15).

On April 26, 2013 petitioners filed a petition for supervisory and/or advisory mandamus and petition for mandamus and/or prohibition or other relief with respect to the January 23, 2013 and February 8, 2013 orders. (App. 16 & 17). In that petition, again, petitioners made clear they were requesting the appointment of a three-judge court. (App. 16.516 ¶2). On April 30, 2013 the request for stay and injunction was denied. (App. 18). On May 28, 2013 the petition was denied. (App. 19).

On June 25, 2013 this court rendered its decision in Shelby. On August 28, 2013 the Ninth Circuit denied the petitioners' emergency motion for stay and injunction and protective order pending appeal and dismissed the appeal concerning the January 23, 2013 and February 8, 2013 orders for lack of jurisdiction. (App.20 & 21).

Following the Shelby decision the judge continued to ignore the request for a three-judge court and the petitioners continued to be subjected to retaliation in the state court. Voting rights members unsuccessfully attempted to obtain injunctive relief by alternative forms (i.e. via individual direct action or civil rights removal). In those cases petitioners requested relief by issuance of a certificate of necessity to the statutory officer.¹⁵ (App. 22-23, 25-26, 28-29, 31-32). Thereafter, it became plainly apparent that there

¹⁵ Generally the applications under 28 U.S.C. § 292 were not referred to the statutory officer (the Chief Judge of the Ninth Circuit) by indicating that there no jurisdiction for a party to make such request.

was direct and indirect competition between the cases of former and current justices of the California Court of Appeal for the Second Appellate District and the members of the voting rights case. (i.e. see App. 25.607-620, 631-632). The litigation of the state justices was spearheaded and guided by Elwood Liu (a former justice). (App. 2.182-184, 2.205-208, 2,278). Approximately one-half of the federal judges in the Central District of California and other districts recused themselves in cases involving members of the voting rights case.

In the pending related Petition for Writ of Certiorari involving lead members of the voting rights case there was only a partial remand of the cases under civil rights removal statutes. (App. 2.190-192, 197-199).¹⁶ The state court disregarded the lack of a remand order.

On February 20, 2014 the California Supreme Court, the California Judicial Council, various justices of the California Court of Appeal for the Second Appellate District, and others filed an admission of disqualifying interests in the federal court. (App. 2.241-246).

On August 14, 2014 the Ninth Circuit reversed the order of Judge Manuel Real at issue in the in the prior proceedings in the voting rights case. Ringgold-Lockhart v. County of Los Angeles, 761 F.3d 1057 (9th Cir. 2014).

On August 24, 2014 members of the voting rights case and Elwood Liu as an attorney appeared on the docket of the California Supreme Court as to

¹⁶ See also writ petition and request for judicial notice pertaining to this removal. (App. 28, 31, 32).

issues raised in the voting rights case. (App. 2.264-276).

On January 8, 2015, without providing notice or hearing or allowing input from the petitioners (the impacted persons), Judge Manuel Real of the District Court for the Central District of California entered new order in response to the Ninth Circuit's decision in Ringgold-Lockhart v. County of Los Angeles. Not only was this conduct prejudicial, the law had substantially changed in favor of petitioners' legal position since the initial December 27, 2011 appeal filed in this case. (See App. 27.702-704). Additionally, without providing notice or opportunity to respond petitioners could not present an adequate record on review. App. 27.710-713, 27.737-809). Nevertheless, the new order still presented no limitation or pre-filing condition that applied to the voting rights case in the District Court in the Eastern District of California. The Ninth Circuit denied the writ petition and emergency motion for stay and injunction. (App. 30). Then an appellate panel, different than the panel in the published decision, affirmed the new order (when the excerpts of record could only consist of the new order and an unopposed motion for stay which was not ruled upon by Judge Real). (See USCA 9th Cir. 15-55045 Dkt 27).

On October 18, 2016 petitioners filed a renewed request for appointment of a three-judge court. (App. 1110-115). On October 20, 2016 Judge Mendez struck the request for appointment of a three-judge court. (App. 1116-1117). Two days after Kamala Harris was elected to the United

States Senate a docket text order was entered stating that the merits of the motions to dismiss had been considered and the voting rights case was dismissed with prejudice. Although the docket specifies that a “signed order was entered”, there is no signed order. A judgment was entered by the clerk dated November 18, 2016. (App. 1.88-91).

As to the proceedings in the state court, petitioners also requested a stay and injunction. (See App. 35-40).

With reasonable diligence, and despite overwhelming hardship and prejudice, the petitioners have sought a stay and injunction in the lower courts. They maintain the view that since 2012 they have been entitled to the appointment of a three-judge court to determine the issue of a preliminary injunction and disposition of their claims under the Voting Rights Act.

Labeling members of the voting right case vexatious, refusing to convene the required three-judge court, attempting to prevent access to legal representation and causing extreme prejudicial delay was an attempt to prevent the proceeding before this court’s decision in Shelby . However, as shown by arguments presented in the petition for writ of mandamus and this court’s decision in Harris v. Arizona Independent Redistricting Com’n, 136 S.Ct 1301, 1309 (2016), California judges that would be subject to a declaration of vacancy of judicial office and a fair judicial election in compliance with the Voting Rights Act, gained no safe harbor for a contested

election. This is irrespective of whether the county was subject to preclearance under Section 5 or the bail in provision of Section 3 (c) of the Voting Rights Act. The voting changes caused by trial court unification in the State of California that substantially diluted minority voting strength in judicial elections were never presented for preclearance. (See App. 1.54-63).

As addressed in the petition for writ of mandamus a three-judge court was always required as requested by the applicants both before and after this court's decision in Shelby. Additionally, a three-judge court is required under the "non-approved bail-out strategy. (App. 62-63). The bail-out provision of 52 U.S.C. § 10303 (a)(6) specifically envisions use of U.S.C. § 292 when there has been delay and the need for judicial resources to expedite an action. Brown and Harris betrayed the public trust, disregarded their obligations under the Voting Rights Act, because they were unable to reconcile the conflict of interest of the past and concurrent representation of judge clients by the office of the attorney general. They knew all along that members of the voting rights case were not window dressings and had timely filed government claims with both the state and the county. They knew they had previously filed a judicial admission that supported the position that the attorney for the plaintiffs in the voting rights case could not be a vexatious litigant because in the applicable proceeding she was not appearing in propria persona and was appearing through her law office as a fiduciary of a trust as required by law. (i.e. See App. 16.537-540, 16.547-548,

16.567-579, 17.580-583, 16.646-647, 27.702-704).



LEGAL DISCUSSION

A. There Is Substantial Merit To The Pending Petition For Mandamus And The Petitions For Certiorari That Are Pending Or To Be Filed

Petitioners demonstrate that jurisdiction exists in this court and that there is a substantial possibility that the judgment below was without jurisdiction and will be reversed. Also they extreme continuing irreparable harm. See Philip Morris USA Inc. v. Scott, 131 S. Ct. 1 (2010) (Scalia, J., in chambers).

Under 28 U.S.C. § 2284 a three-judge court was required to be convened. Section (b)(1) further provided the mandatory procedure to be followed. The only conceivable exception would be if the district judge had determined that a three-judge court was not required. Here, however, it is plainly clear that the district judge did not make a determination that a three-judge court was not required. He simply ignored and later stuck a renewed request for the appointment mandated by 28 U.S.C. § 2284. He had no jurisdiction to entertain the motions to dismiss or to effectuate an injunction against a segment of plaintiffs or to require a segment of plaintiffs to file an amended complaint (without a ruling as to their claims in the first complaint filed). It is indisputably clear that the proceedings in the District Court and the Court of Appeal are in direct conflict with this court's precedent in Stratton and Shapiro. A writ of mandamus is properly used to

“confine an inferior court to a lawful exercise of its prescribed jurisdiction”.

Will v. United States, 389 U.S. 90 (1967). The All Writs Act, 28 U.S.C.

§1651, authorizes such writs when adequate relief cannot be obtained in any other form or from another court. Sup. Ct. R. 20.1; U.S. Alkali Export Ass’n v. United States, 325 U.S. 196, 201-02 (1945); De Beers Consol. Mines, Ltd. v. United States, 325 U.S. 212, 217 (1945). (A writ petition is appropriate when a court has no judicial power to do what it purports to do and the action is not mere error but rather a usurpation of power).

The assigned judge acted without jurisdiction and he failed to disclose that he had direct and financial interests in the subject matter of the complaint. (App. 1.51-54).

Due to the failure to confine conduct to the lawful exercise of jurisdiction, the persons and entities that properly and in good faith brought well-founded claims under voting rights and other law were left without a statutory mechanism to pursue and obtain an injunction or to gain protection from retaliation, intimidation, and coercion. The state court emboldened the federal court’s refusal to appoint a three-judge court and the lack of any legal disposition concerning Section 5 of SB x211 (including by request of the Commission on Judicial Performance), continued to subject members of the voting rights case to relentless retaliatory conduct in violation of the Voting Rights Act and the First, Fourteenth, and Fifteenth

Amendments.¹⁷

The related pending petition for certiorari, *ASAP Copy & Print et al v. Canon Solutions America, Inc.*, provides this court with a typical example of the dramatic irreparable harm to members of the voting rights case. In violation of 28 U.S.C. § 1446 (d) a state court justice who had *already* filed a disqualification statement in the federal court created a proceeding that treated a person associated with the voting rights case and counsel in the case as vexatious litigants when the California Vexatious Litigant Statute had no application. (See App. 2.241-246, 17.580-583). Additionally the state court clerk prohibited other members of the court from making a determination of whether disqualification was required by refusing to file the mandatorily required certification of interested persons and entities. The state court justice then added the name of a non-party in the caption of a decision thereby leading to enforcement proceedings in violation of 28 U.S.C. § 1446 (d) which exceeded the disposable income of the persons associated with the voting rights case in violation of 15 U.S.C. § 1673 (a) and (c).

As to the two anticipated petitions arising from the cases of *Cornelius*

¹⁷ The fact that there may be a waiver filed in this court as to a segment of the respondents is irrelevant. (See 10/10/19 waiver of the current Governor (Gavin Newsom) and Attorney General (Xavier Becerra), and the Commission of Judicial Performance of the State of California not accepted for filing). There has been no waiver filed by Jerry Brown and Kamala Harris in their individual capacity or Elaine Howle (State Auditor of the State of California). The lack of a response by the current Governor and Attorney general is irrelevant due to the unwaiveable structural conflicts of interest . Any waiver should be construed as an admission of the unwaivable conflict of interests. This court or a three-judge court may properly appoint special counsel or public trustee as requested in the class action voting rights complaint. (See App. 1.38-40, 1.123.1.132).

Turner v. Hartford Casualty Insurance Co. and TBF Financial I, LLC v. ASAP Cop and Print et al., involve similar harm and issues that relate to the lack of fundamental jurisdiction.

Given the admission of disqualification filed by the Supreme Court in the federal court, it is evident that only this court can determine the issue of whether Section 5 of SB x211 is unconstitutional and whether racial and language minorities who object to the statute can be compelled to involuntarily waive federal rights in proceedings without official court reporting or audio-recording services. Petitioners properly request that this court determine this issue or that after issuance of a certificate of necessity by the Circuit Justice that a proper three-judge court be convened outside the State of California to determine the issue within the context of the voting rights case.

B. Petitioners Have Demonstrated Irreparable Harm And Violation Of First Amendment And Voting Rights

The improper labeling of petitioners as “vexatious” is not based on improper litigation. It is intended to adversely impact the group association and the credibility petitioners and their viewpoints concerning the requested special judicial election and the legitimacy of certain claims of incumbency achieved through violations of the Voting Rights Act and Article VI § 17 of the state constitution.¹⁸ It is also being used to adversely impact the legal representation of those persons seeking to bring voting rights claims and

¹⁸ See i.e. App. 16.522-534, 16.537-552.

objecting to Section 5 of SB x211 and the involuntary waiver of federal rights in state court proceedings. The labeling of petitioners only commenced when grievance were asserted as to matters associated with the voting rights claim. The First and Fourteenth Amendment rights of free speech and free association are fundamental and highly prized and “need breathing space to survive.” See NAACP v. Button, 371 U.S. 415, 430-438 (1936).

There is irreparable harm when there is a loss of First Amendment freedoms, even for minimal periods of time and “harm is particularly irreparable where, as here, the defendant seeks to engage in political speech, “as timing is the essence in politics and [a] delay of even a day or two may be intolerable.” Thalheimer v. City of San Diego, 645 F.3d 1109, 1128 (9th Cir. 2011). Here, the impairment is substantial due to the direct link between the impairment of voting rights and the First Amendment rights asserted. Therefore the claims are subject to strict scrutiny. See NIFLA v. Becerra 138 S.Ct. 2361 (2018), NAACP v. Button, *supra* at 433, NAACP v. Alabama ex rel. Flowers, 377 U.S. 288, 297 (1964), See also Vieth v. Jubelirer, 541 U.S. 267, 313-16 (2004)(Kennedy, J concurring in judgment) (if the “State did impose burdens and restrictions on groups or person by reason of their views, there would likely be a First Amendment violation, unless the State shows some compelling interest....”), Legal Services Corp. v. Velazquez, 531 U.S. 533 (2001) (unconstitutional to restrict speech and medium of expression in a

manner which distorts the usual function of an attorney).

C. An Injunction Is Appropriate In Aid Of This Court's Jurisdiction And The Legal Rights At Issue Are Indisputably Clear

Petitioners seek to stay further proceedings in the state and federal court so as aid in this court's jurisdiction, the proper jurisdiction of a three-judge court, and to maintain the status quo between the parties. They are requesting to stay and enjoin the proceedings identified in Attachment 1 which involve the petitioners and persons involved in or associated with the voting rights case, have asserted an objection to the statute, refuse to involuntarily waive rights under the United States Constitution and federal law, and refuse to act without the mandatorily required disclosure and consent required by the state constitution. This relief is appropriate because it the voting rights case intended to stay any proceeding that related to the representative members of the class.

Without the requested stay and injunction, it will be apparent that the most vulnerable populations in the State of California are unable to challenge the statute. Even when they are e harmed in the ongoing proceedings they are left without a remedy under the uncoded super immunity provision. Those that do object are subjected to penalties and retaliation in violation of the First Amendment.

If the relief sought as to the state court proceedings is considered an injunction, e.g. more than to simply suspend judicial alteration of the

status quo, this court should grant the relief sought under 28 U.S.C. § 1651. This is because an injunction is appropriate as necessary or appropriate to aid in this court's jurisdiction and the legal rights at issue are indisputably clear. See Turner Broadcasting Systems, Inc. v. FCC, 507 U.S. 1301, 1303 (1993).

D. There Is Substantial Merit To The Request For The Circuit Justice To Issue A Certificate Of Necessity Under The Procedures Of 28 U.S.C. § 292 And/Or 28 U.S.C. § 294

Under 28 U.S.C. § 292 and 294 Circuit Justice for the Ninth Circuit can issue a certificate of necessity. Petitioners have demonstrated substantial delay and the fact that they requested appointment of a three-judge court and failure to act in accord with the mandatory requirements of 28 U.S.C. § 2284. (App. 63-67). The Voting Rights Act references the need for use of the provisions of 28 U.S.C. § 292 when there has been undue delay. (See 52 U.S.C. § 10303 (a)(6)). Given the substantial number of recusals in the state and federal court, it is appropriate for the this Circuit Justice to expedite the appointment and grant the temporary relief warranted in this case.

Petitioners have shown an extraordinary appearance of partiality thereby undermining public confidence that an objective and thoughtful legal decision could be rendered in the geographical area. It is public confidence in the judiciary that is integral to preserving the justice system. See Mistretta v. United States, 488 U.S. 361, 407 (1989). ("The legitimacy

of the Judicial Branch ultimately depends on its reputation for impartiality and nonpartisanship”); In re Murchison, 349 U.S. 133, 136 (1955) (“[T]o perform its high function in the best way justice must satisfy the appearance of justice.”).

Applicants have properly presented sufficient grounds based on necessity and the public interest for the requested intercircuit judicial assignment or other assignment under Chapter 13 of Title 28 of the United States Code.

◆

CONCLUSION

For the foregoing reasons, applicants respectfully request that this court grant this emergency application for stay and injunction pending disposition of the petition for writ of mandamus and pending the filing and/or disposition of the petitions for writ of certiorari. They request that the Circuit Justice for the Ninth Circuit issue of certificate of necessity under because the record at this point demonstrates substantial local prejudice and bias, irregularity in judicial assignments, and that a substantial number of federal judges in the district court and Ninth Circuit have general and financial interests in the challenges to section 5 of

SB x211 and the relief sought in the voting rights case.

Dated: October 14, 2019

Respectfully Submitted,
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ATTACHMENT 1

CASES PENDING IN THE UNITED STATES SUPREME COURT				
Date	Case Name	USSC Case No.	Lower Court Case No.	Status
9/18/19 Docketed 9/16/19 Filed	<i>In Re The Law Offices of Nina Ringgold and All Current Clients Thereof</i> (Petition for A Writ of Mandamus)	United States Supreme Court No. 19-359	United States Court of Appeals No. 17-16269 United States District No. 12-cv-00717-JAM-JFM	Pending
10/15/19 Docketed 8/8/19 Filed	<i>ASAP Copy and Print et al. v. Canon Solutions America, Inc.</i> (Petition for a Writ of Certiorari) [Lack of remand order from federal court]	United States Supreme Court No. 19-482	Cal. Supreme Court Case No. S254463 Cal. Court of Appeal Case No. B284364, B286786, B290367 Los Angeles Superior Court Case No. PC043358	Pending

CASES WITH ANTICIPATED RELATED PETITIONS FOR WRIT OF CERTIORARI ARISING FROM THE STATE OR FEDERAL COURT			
STATE COURT			
Date of Judgment	Case Name	Court and Case Number	Petition Due
8/28/19	<i>Cornelius Turner v. Hartford Casualty Insurance Co. et al.</i> [Lack of remand order from federal court]	Cal. Supreme Court Case No. S257525	11/26/19 Petitioners: Law Office of Nina Ringgold, Nina Ringgold (Cornelius Turner recently died and is not a petitioner)
9/11/19	<i>TBF Financial I, LLC v. ASAP Copy and Print et al.</i> [Clerk failure to issue summons on class action cross-complaint]	Cal Supreme Court S257643	12/10/19 Petitioners: Ali Tazhibi, ASAP Services Inc. dba ASAP Copy & Print, Law Offices of Nina Ringgold, Nina Ringgold
FEDERAL COURT			
Date of Judgment	Case Name	Court and Case Number	Petition Due
No Judgment	<i>The State Bar of California v. Nina Ringgold et al.</i> [Lack of remand order from on initial removal]	United States Court of Appeal for the Ninth Circuit No. 19-55518 United States District Court, Central District of Cal No. 19-c-v-00301-GW-MRW (no lower state court case number, administrative (non-court proceeding) operating without remand order from federal court)(Case Nos. 09-O-13090 et. al (consl).	Petition Before Judgment

**LISTING OF PENDING CASES INVOLVING VOTING RIGHTS
MEMBERS IN THE STATE OR FEDERAL COURT INVOLVED IN
THE APPLICATION FOR STAY, INJUNCTION, AND PROTECTIVE
ORDER**

State

1. Filed: 3/6/03. In re Aubry Family Trust (Los Angeles Superior Court No. PC043358. (applicant one of holders of representative government claims)
2. Filed: 7/5/07. *Karim A. Shabazz v. Federal Express Corporation* (Los Angeles Superior Court Case No. BC373824) (applicant one of holders of representative government claims)
3. Filed: 8/4/08. *ASAP Copy & Print, Ali Tazhibi dba ASAP Copy & Print v. Canon Business Solutions, Inc.; Canon Financial Services, Inc.; General Electric Capital Corp.; Hemar, Rouso & Heald LLP* (Los Angeles Superior Court No. PC043358); (Enforcement action: *Ali Tazhibi dba ASAP Copy & Print ; Ali Tazhibi, Azita Daryaram, Masih Tazhibi, Matin Tazhibi v. Canon Solutions America* (Los Angeles Superior Court No. PC043358, Cal. Court of Appeal Nos. B284364, B286786, B290367, Cal. Supreme Court No. S254463) (applicant one of holders of representative government claims) **[Lack of remand order from federal court]**
4. Filed: 7/22/10. *Lisa Turner v. Cornelius Turner* USDC Case No. 10-cv-5435-VBF-Ex. (complete diversity); Cornelius Turner filed counterclaim and third party complaint on 10/26/10 in same case. *Cornelius Turner v. Hartford Casualty Insurance Company; The Rule Company, Incorporated; Craig Ponci; Nadja Silletto, Norma Pierson; Tony Gaitan, Elaine Albrecht; Thornhill & Associates, Inc.* USDC Case No. 10-cv-5435-VBF-Ex. (complete diversity); Case was realigned and severed requiring involuntary filing in state court and separation from jointly insured wife (Marian Turner) who remained in federal court on her separately filed counterclaim and third party complaint filed on 4/5/11; on 9/15/11 The Rule Company removed the same case severed back to the federal court. Judge signed transfer order over signature line of assigned judge. No remand order exists returning to the state court on the 9/15/11 removal of The Rule Company. The following cases in state court formed without a remand order following The Rule Company's 9/15/11 removal:

In re Hartford Litigation Cases:

Marian Turner, Lisa Turner v. Hartford Casualty Insurance Company; The Rule Company, Incorporated; Craig Ponci; Nadja Silletto, Norma Pierson; Tony Gaitan, Elaine Albrecht; Thornhill & Associates, Inc.; and

Cornelius Turner v. Hartford Casualty Insurance Company; The Rule Company, Incorporated; Craig Ponci; Nadja Silletto, Norma Pierson; Tony Gaitan, Elaine Albrecht; Thornhill & Associates, Inc.

(Consolidated) (Los Angeles Superior Court Case No. BC463850, Cal. Court of Appeal Nos. B248667, B250084, B261032, B256763, Cal. Supreme Court No. S257525)

[Lack of remand order from federal court]

Related Cases: (Los Angeles Superior Court Case Nos. BC463639, BC463698)

5. Filed: 3/24/11. *Dorian Carter v. Tracy Sheen, Nathalee Evans Barnett* (Los Angeles Superior Court Case No. BC458090) (applicant one of holders of representative government claims); This case was removed on 4/23/19 (United States District Court for the Central District of California No. 19-cv-3217-MWF-Ex) **[Removed to federal Court]**

VOTING RIGHTS CASE FILED MARCH 21, 2012
(Same day of Suspension of State Court Rules of Court and Court Reporting Services

6. Filed: 8/8/14. *TBF Financial I, LLC v. ASAP Copy & Print* (and class action cross-complaint) *ASAP Services, Inc. dba ASAP Copy & Print, Inc. v. Canon Solutions America, Inc, TBF Financial LLC I; TBF Financial LLC; CIT Technology Financing Services I, LLC; CIT Technology Financing Services, Inc.; Citicorp Vendor Finance, Inc.* (Los Angeles Superior Court Case No. PC056074, , Cal. Court of Appeal No. B291897, Cal. Supreme Court No. S257643) **[Clerk failure to issue summons on class action cross-complaint]**

7. Filed: 5/17/17. *Enrique Ricardo Vargas et al. v. Melaragno Family Trust et al.* (Los Angeles Superior Court Case No. BC661148)

8. Filed: 8/25/17. *Justin Ringgold-Lockhart as Personal Representative et al v. Providence Health & Services.* (United States District Court for the Central District of California No. 17-cv-06296-SJO-SK)

9. Filed: 11/15/18. *Melaragno Family Trust v. Hilario Rivera* (Los Angeles Superior Court Case No. 18STUD11926)

10. Filed: 1/15/19. (Removal and Writ of Habeas Corpus etc.) *The State Bar Of California; Board Of Trustees Of The State Bar Of California; Thomas Miller Former General Counsel, Vanessa Holton Current General Counsel; State Bar Court Of California; Jayne Kim Former Chief Trial Counsel, Steven Moawad Former Chief Trial Counsel, Melanie J. Lawrence Interim Chief Trial Counsel; Ashod Mooradian, Agustin Hernandez, Ross Viselman Trial Counsel; Craig Matheny Investigator, Barbara Field Investigator, And Any Other Alleged Investigator(s); all the above independently and as persons and/or entities governed under Cal. B&P Code § 6031 (b) v. Nina R. Ringgold, Esq., Law Offices Of Nina R. Ringgold As Member Of The State Bar Of California with clients protected Under § § 1-3 Of The Civil Rights Act of 1866 And Cal. B&P Code § 6001.1 (Eff. 10/2/11) and engaged in action under Voting Rights Act that seeks a special judicial election in The State Of California* (United States District Court No. 19-cv-003-1-GW-MRW, United States Court of Appeals for the Ninth Circuit No. 19-555818 (filed 5/7/19)
[Lack of remand order from federal court]

And

Any proceeding arising from or related to *In re Nina Ringgold* (Non-state court, Case Nos. 09-O-13090 (Cal. State Bar Ct).

11. Filed: 2/4/19. *Justin Ringgold-Lockhart as Personal Representative et al v. Providence Health & Services et al.* (Los Angeles Superior Court Case No. 19STCV04149)

12. Filed: 4/29/19. *Justin Ringgold-Lockhart as Personal Representative et al v. UC Regents et al.* (Los Angeles Superior Court Case No. 19STCV14859)

13. Filed: 6/27/19. *Justin Ringgold-Lockhart as Personal Representative et al v. Arash Nikoukari et al.* (United States District Court for the Central District of California No. 19-cv-05601-FMO-AFM)