

EXHIBITS – all scans are true and correct copies

Document 51 - Note at page 2, lines 22 through 23 “not relator”. FACT; 14-01279 is stricken from the record said by Judge Alsup a non attorney represented qui tam. It’s not a qui tam . . .

Case3:14-cv-01279-WHA Document51 Filed05/21/14 Page2 of 3

1 our country to have a *pro se* litigant without resources proceed on behalf of the United States via
2 a *qui tam* action. That ended forever Mr. Bruzzone’s *qui tam* action.

3 At the hearing, Mr. Bruzzone stated (Feb. 27, 2014 H’rg. Tr. at 3, 6–9):

4 MR. BRUZZONE: . . . It’s true, your Honor, I’m not continuing
5 with the *qui tam* because I don’t have the resources, nor does
[former counsel] Mr. Bauer have the resources or the specialty
knowledge to do so.

6 * * *

7 THE COURT: Were you . . . employed by Intel at some point?

8 MR. BRUZZONE: By Intel? . . . I was employed by Intel as a
9 consultant to consult on anti competitive practices observed in the
10 field in August of 1997.

11 * * *

12 THE COURT: When is the last time you ever worked for Intel as
13 an employee? . . .

14 MR. BRUZZONE: I was a consultant in ’97, your Honor.

15 In the wake of the dismissal and judgment, Mr. Bruzzone, still without counsel, filed his
16 own purported individual lawsuit against Intel Corporation and “Advanced RISC Machines, Inc.”
17 *Bruzzone v. Intel Corporation, et al.*, No. 3:14-cv-01279-WHA (N.D. Cal. Mar. 19, 2014).
18 The problem is that his complaint is replete with 78 references to him as a “relator.” He has also
19 moved for time to “correspond” with “Attorney General [Eric] Holder, President Obama,
20 [Assistant U.S. Attorney] Sara Winslow, Congress, United States Department of Labor, Office of
21 Special Counsel, United States Merit Systems Protection Board, General Services Administration,
[and] Federal Trade Commission Investigator Generals of many agencies.”

22 *Pro se* Michael Bruzzone is not a relator. *The United States is in no way involved with*
23 *this action*. The United States declined to intervene and consented to dismissal of the *qui tam*
24 action months ago. Therefore, Mr. Bruzzone’s complaint is **STRICKEN IN ITS ENTIRETY**.
25 The two pending motions to dismiss and Mr. Bruzzone’s motion for time to correspond with the
26 government are **DENIED AS MOOT** (Dkt. Nos. 11, 16, 37).

27 Mr. Bruzzone may file a first amended complaint by **NOON ON JUNE 4**, or this action will
28 be dismissed. It shall make no reference whatsoever to “relator,” “*qui tam*,” or the False Claims

Document 88 -“not relator: continues at page 1, lines 25 through 26; “But he (Bruzzone) is not a relator”

United States District Court
For the Northern District of California

Case3:14-cv-01279-WHA Document88 Filed08/19/14 Page1 of 13

**ORIGINAL
FILED**

AUG 18 2014

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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6 IN THE UNITED STATES DISTRICT COURT

7 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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10 MICHAEL A. BRUZZONE,

11 Plaintiff,

No. C 14-01279 WHA

12 v.

13 INTEL CORPORATION, et al.,

14 Defendants.

**ORDER GRANTING INTEL'S
MOTION TO DECLARE
MICHAEL BRUZZONE
A VEXATIOUS LITIGANT**

15
16 **INTRODUCTION**

17 The essence of this matter is that our plaintiff has relentlessly pursued defendant
18 manufacturer in a series of lawsuits that have now become extremely far-fetched and abusive.
19 On motion, this order finds that plaintiff is a vexatious litigant, at least as to litigation involving
20 defendant and its employees, and will impose pre-filing restrictions.

21 **STATEMENT**

22 *Pro se* plaintiff Michael A. Bruzzone describes himself as a “Relator” who became
23 involved in investigating alleged “antitrust and espionage violations occurring domestically in the
24 x86 microprocessor industry.” He allegedly participated in the Federal Trade Commission’s
25 investigation of defendant Intel Corporation in 1998 and 1999 (Compl. ¶¶ 18, 19, 21, 23). But he
26 is not a “relator” and the United States is *not* a party to this civil action.

27 In 1999, Mr. Bruzzone filed a *pro se* complaint against Intel Corporation and others in
28 Santa Clara County Superior Court. *See Bruzzone v. Intel Corporation, et al.*, No. 1:99-cv-
779409 (Santa Clara Sup. Ct. Jan. 20, 1999) (Judge Mark Pierce). In 2001, he — via counsel

No Do
line 18
THAT

Document 94 - "Mr. Bruzzone is not a relator" continues at page 2, line 5. "He refers to himself as witness relator and claims United States is involved" (on statute) . . .

Case3:14-cv-01279-WHA Document94 Filed09/02/14 Page2 of 2

1 912 F.2d 1144, 1147 (9th Cir. 1990). Both decisions were considered and addressed in the
2 August 19 order. No new, material, binding authority has been proffered.

3 *Third*, Mr. Bruzzone continues to attempt to needlessly drain resources from the
4 government and seek to "arrest [Attorneys] McManis, Faulkner, and their Intel cohort." Even
5 though Mr. Bruzzone is not a relator, he refers to himself as a "witness Relator" and claims that
6 the United States is involved. He previously filed a motion requesting "time to correspond" with
7 a number of senior government officials, including Attorney General Eric Holder and President
8 Obama. He continues to allege that he "holds [an] explicit promissory contract from [the] United
9 States to award him up to 30% of the federal false claims recovery, from Intel Corporation" and
10 "has proposed to the United States Congress, an Intel Corporation settlement range; \$164,160,000
11 to \$328,320,000" based on Intel's alleged cartel behavior (Dtk. No. 92). His "declaration" is
12 addressed to a litany of individuals, including but not limited to Intel's in-house counsel, Intel's
13 counsel of record in this action, the Vice President and President of the United States, and
14 members of the FBI, CIA, FTC, and so forth.

15 Nothing in Mr. Bruzzone's motion warrants reconsideration of the August 19 order.
16 For the reasons stated herein, Mr. Bruzzone's motion is **DENIED**. The October 30 hearing is
17 hereby **VACATED**. The pre-filing review order continues to remain in place (Dkt. No. 88).

18
19 **IT IS SO ORDERED.**

20
21 Dated: September 2, 2014.


WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE

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DOCUMENT 107 – at line 18 and 19 “declaring he was not a relator”???

United States District Court
For the Northern District of California

Case 3:14-cv-01279-WHA Document 107 Filed 10/13/15 Page 1 of 1

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**ORIGINAL
FILED**

OCT 13 2015

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

6 IN THE UNITED STATES DISTRICT COURT

7 FOR THE NORTHERN DISTRICT OF CALIFORNIA

8
9
10 MICHAEL A. BRUZZONE, No. C 14-01279 WHA
11 Plaintiff,
12 v.
13 INTEL CORPORATION and ARM, INC., **ORDER DENYING MOTION
14 Defendants. / TO RECONSIDER**
15

16 An August 19, 2014 order granted Intel Corporation’s motion to declare *pro se* Michael
17 Bruzzone a vexatious litigant (Dkt. No. 88). Although Bruzzone did not attend the hearing on
18 the motion he has now moved for reconsideration of that order as well as an order declaring that
19 he was not a relator, for the fifth time. With this attempt, Bruzzone has filed a supplemental
20 brief that cites dozens of decisions discussing due process (and an academic article about the
21 *Magna Carta*), but he has again failed to raise any material difference in fact or law from that
22 presented when the initial order issued or when his first four motions for reconsideration was
23 denied (Dkt. No. 94). He has simply restated the same baseless allegations of a conspiracy
24 among defendants and the Court to “damn Bruzzone as vexatious.” For the reasons stated in the
25 prior order denying Bruzzone’s motion for reconsideration, Bruzzone’s motion is **DENIED**.
26

The pre-filing review order shall remain in place.

27 **IT IS SO ORDERED.**

28 Dated: October 13, 2015.

Wm. A. Alsup
WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE

DOCUMENT 114 – “not relator and the United States is not a party” at line 19

United States District Court
For the Northern District of California

Case 3:14-cv-01279-WHA Document 114 Filed 11/30/15 Page 1 of 2

**ORIGINAL
FILED**

NOV 30 2015

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

1 ATTACK OF FTC
2 STATUS

6 IN THE UNITED STATES DISTRICT COURT

7 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 MICHAEL A. BRUZZONE,

11 Plaintiff,

12 v.

13 INTEL CORPORATION and ARM, INC.,

14 Defendants.

**ORDER DENYING
THIRD MOTION TO
DISQUALIFY JUDGE**

15 An August 19, 2014 order granted Intel Corporation’s motion to declare *pro se* Michael
16 Bruzzone a vexatious litigant (Dkt. No. 88). Although Bruzzone repeatedly described himself
17 as a “relator” charged with investigating alleged antitrust and espionage violations in the
18 microprocessor industry, he is not a “relator” and the United States is *not* a party to this action.
19 *CHANGE IN RELATION*
20 Bruzzone has filed numerous motions seeking reconsideration of that order, each of which has
21 been denied. Bruzzone also moved to disqualify the undersigned judge pursuant to Section 144
22 of Title 28 of the United States Code. As required by Section 144, that motion was referred to
23 another judge, who denied it (Dkt. No. 58). Bruzzone filed a second motion under Section 144, ~~X~~
24 which was denied because a party may only file one motion under Section 144 per case (Dkt.
25 No. 108).

26 Bruzzone now moves to disqualify the undersigned judge from this matter under
27 Sections 455(a) and 455(b)(1) of Title 28 of the United States Code and Section 1001(a) of Title ~~X~~
28 18 of the United States Code. Section 455(a) provides that a judge should disqualify himself
from a proceeding “in which his impartiality might reasonably be questioned.” Section
455(b)(1) provides that a judge should also disqualify himself where he has a “personal bias or

PROOFS OF RELATOR – non intervention qui tam contract of December 10, 2008



U.S. Department of Justice

*United States Attorney
Northern District of California*

*9th Floor, Federal Building
450 Golden Gate Avenue, Box 36055
San Francisco, California 94102
edward.olsen@usdoj.gov*

*(415) 436-6915
FAX: (415) 436-6927*

December 10, 2008

Mr. Michael Bruzzone
6000 Park Avenue
Richmond, CA 94805

Re: U.S. ex rel. Bruzzone v. Intel Corp., No. 08-4169 WHA

Dear Mr. Bruzzone:

As you know, the United States has declined to intervene in this case, and therefore is not a litigant to the underlying action. However, the United States remains the real party in interest, entitled to the majority of any damages and penalties recovered on its behalf. 31 U.S.C. 3730(d). Accordingly, I thought it might be helpful to remind you of certain provisions in the False Claims Act and to advise you of certain policy considerations that may assist you in litigating or settling this case.

1. Your Pro Se Status

While a relator is generally able to maintain the action in the name of the United States following a declination, *see* 31 U.S.C. § 3730(b)(1), the United States Court of Appeals for the Ninth Circuit has held in *United States ex rel. Stoner v. Santa Clara County Office of Education*, 502 F.2d 1116, 1126-28 (9th Cir. 2007), that a *pro se* relator cannot prosecute a *qui tam* action on behalf of the United States under the False Claims Act. According, we have suggested to the Court that it dismiss the action unless you obtain counsel within 60 days of the date of the Court's Order.

If, for some reason, the Court permits you to proceed *pro se*, or if you obtain counsel, and proceed with this case, I wish to advise you of the additional considerations discussed below.

2. Decision to decline intervention

Our decision to decline should not be construed as a statement about the merits of the case. Indeed, the government retains the right to intervene at a later date upon a showing of good cause. 31 U.S.C. § 3730(c)(3).

3. Discovery

The United States is a third party for discovery purposes, and any discovery requests should comply with Federal Rule of Civil Procedure 45. Documents should be sought pursuant to a subpoena *duces tecum*. In most cases, if you wish to question a government employee, you will have to do so by deposition. (Please note that you also may have to comply with the agency's "Touhy regulations." See, for example, 32 C.F.R. § 97.6 (Department of Defense).) The government will object to requests for admissions or answers to interrogatories. Of course, the government also may assert any appropriate privileges.

4. Service of pleadings

When the government submitted its notice of declination, it invoked its statutory right, 31 U.S.C. § 3730(c)(3), to receive copies of all pleadings filed by the litigants. Accordingly, please be sure to send a copy of all documents filed with the Court to me.

5. Amended Complaint

If an amended complaint is filed that differs substantively from the original complaint, it should be filed under seal and should not be served upon the defendant, pursuant to the False Claims Act's provisions on initiating actions, 31 U.S.C. § 3730(b)(2). Such an amended complaint would initiate a new sixty-day seal period as to the new matters raised in the amended complaint, subject to extensions, during which the United States would conduct an investigation and elect whether to intervene in and proceed with the action. Substantive amendments to an original complaint that would trigger a new sixty-day investigatory period include any new allegations of fraud or the addition of defendants not named in the complaint.

6. Settlement

The parties can dismiss this action only with the consent of the Department of Justice. 31 U.S.C. § 3730(b)(1). Thus, a settlement of this case requires the consent of this office. (The Ninth Circuit has held that a court can approve a settlement over the objection of the government if the government has been given an opportunity to explain its objection to the court. U.S. ex rel. Killingsworth v. Northrop Corp., 25 F.3d 715 (9th Cir. 1994).) Accordingly, we recommend that once the subject of settlement is raised, the parties should notify government counsel and keep the government informed as discussions progress.

With regard to settlement, we have the following comments:

- a. The government will not agree to dismissal with prejudice of False Claims Act liability (or other potential government actions) unless the government is receiving a recovery.
- b. The government will review the reasonableness of all proposed settlement amounts. Many false claims actions include a count for wrongful employment discrimination pursuant to 31 U.S.C. § 3730(h). Where a settlement addresses both damages to the government and to the relator, we are careful to ensure that the government is receiving its fair share of the total

settlement amount.

c. 31 U.S.C. § 3730(d)(2) provides that if False Claims Act liability is found, the defendant shall be directly liable to the relator for reasonable expenses and attorney fees and costs. If a settlement is to address this issue, the defendant and relator should agree on the amount and provide for payment directly from the defendant to the relator. The government will review this amount to ensure that it is reasonable.

d. The False Claims Act provides that in a declined qui tam case, the relator shall receive 25 to 30 percent of the proceeds of the action. 31 U.S.C. § 3730(d)(2). (Under certain circumstances, the award may be less than 25 percent. 31 U.S.C. § 3730(d)(3).) The agreement on a percentage is a matter to be addressed by the government and the relator - or the court if agreement cannot be reached. Agreement with the government on the relator's share can be part of the settlement agreement with the defendant or the government and the relator can deal with this issue separately. When we agree on the proper relator's share of any settlement proceeds, the relator must agree to release all claims against the United States arising from the filing of the qui tam. Normally, payment of damages will be made to the government. If the relator's share is resolved as part of the settlement, the parties can arrange for the relator to receive his or her share directly from the defendant. If defendant's payments to the government are to be over time, payment of the relator's share also will have to be over time.

e. The government has several strict requirements regarding the contents of its False Claims Act settlement agreements. We can send you sample copies of settlement agreements if you request. Generally, note the following:

1. Our releases are narrow. A relator may only negotiate to release False Claims Act claims. The relator has no authority with respect to any other causes of action the government might have against the defendant. We will release the defendant only for civil monetary liability for the specific allegations of the complaint.

2. The agreement must contain language that (1) the settlement does not release the defendant from claims arising from the Internal Revenue Code; (2) the settlement does not release the defendant from suspension or debarment action; (3) the defendant may not charge back to the government directly or indirectly any of the costs or expenses of the litigation. Depending on the type of case, other mandatory language may be required.

I hope that providing you with these guidelines will facilitate any negotiations and help avoid an agreement between the parties that the United States cannot support.

Sincerely,

JOSEPH P. RUSSONIELLO
United States Attorney

By: 
EDWARD A. OLSEN
Assistant United States Attorney

PROOFS OF RELATOR – U.S. Attorney direction to secure attorney, December 3, 2010

Subj: **RE: Fm Bruzzone Re Intel FCA**
Date: 12/13/2010 7:37:06 PM Pacific Standard Time
From: Sara.Winslow@usdoj.gov
To: Campmkting@aol.com

Mr. Bruzzone,

If you retain an attorney for your case(s), please have him or her contact me. Otherwise, there is nothing further for us to meet about. The United States has declined to intervene in your cases, and the law does not permit you to proceed without an attorney.

■ Sara Winslow

From: Campmkting@aol.com [mailto:Campmkting@aol.com]
Sent: Monday, December 13, 2010 9:58 AM
To: Winslow, Sara (USACAN)
Subject: Fm Bruzzone Re Intel FCA

Hi Sara:

Following up on the Intel FCA. Wondering if you have time to meet on this topic before holiday?

Regards,

Mike Bruzzone
Camp Marketing Consultancy
6000 Park Avenue
Richmond, CA 94805
415 250 4652
[campmkting @ aol](mailto:campmkting@aol.com)

PROOFS OF RELATOR – U.S. DOJ confirming non intervened “relator”, March 2011



U.S. Department of Justice

Executive Office for United States Attorneys

Office of the Director

Room 2261, RFK Main Justice Building
950 Pennsylvania Avenue, NW
Washington, DC 20530

(202) 222-1000

MAR 21 2011

SAN FRANCISCO OFFICE

The Honorable Dianne Feinstein
United States Senator
One Post Street, Suite 2450
San Francisco, California 94104

MAR 30 2011

ACTION: _____

Attn: Dan Wessel

Dear Senator Feinstein:

This responds to your letter to the Office of Legislative Affairs dated February 2, 2011, on behalf of your constituent Mr. Mike Bruzzone. Mr. Bruzzone has requested your advice on how to further an investigation by the United States Attorney for the Northern District of California (USAO) into an alleged fraud by Intel Corporation.

We have been in contact with the USAO regarding this matter and can assure you that the USAO and the General Services Administration's Office of the Inspector General have examined Mr. Bruzzone's allegations. Mr. Bruzzone may obtain his own attorney and proceed, irrespective of any decision of the United States.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this, or any other matter.

Sincerely,

H. Marshall Jarrett
Director

PROOFS OF RELATOR – Office of Senator Dianne Feinstein confirmation, April 21, 2011

Page 1 of 2

Subj: RE: Fm Bruzzone Re Intel Case Update for Senator Feinstein's information
Date: 4/21/2011 9:57:10 AM Pacific Standard Time
From: Dan_Wessel@feinstein.senate.gov
To: Campmkting@aol.com

Mike

I received a response letter from the Department of Justice earlier this week. I've attached a copy of that letter. I also spoke to the staff at the Office of the Director of the Executive Office for United States Attorneys and was told that the government has declined to proceed with the case.

It is my understanding that as a realtor, you may still bring a lawsuit on behalf of the United States with your own attorney. If you choose to do so, the Department of Justice could intervene and join the suit at a later time. If the government does not decide to participate in a qui tam action, you would still be able to proceed without the Department of Justice.

I'm afraid there is not much more our office can do to intervene at this time.

Best wishes and good luck to you.

Sincerely,

Dan Wessel

From: Campmkting@aol.com [mailto:Campmkting@aol.com]
Sent: Thursday, April 21, 2011 9:41 AM
To: Wessel, Dan (Feinstein)
Subject: Fm Bruzzone Re Intel Case Update for Senator Feinstein's information

April 21, 2011

Hi Dan:

For Senator Feinstein's information.

Following up on my Monday phone call including voice mail message, attached find three new government submissions in attachment.

- 1) State Attorneys General Intel Case Update
- 2) State Intel Cartel complaint example standardized for efficiency
- 3) April 18th full briefing revision 3.7; with latest economic pointers to monopoly proofs added into the back as usual.

Trust DOJ Office of Legislative Affairs will respond to your initial inquiry of late February.

That US DOJ Civil Rights Office will act on my February 21, 2011 retaliation complaint. And follow up on original complaint of July / August 2003 including correspondence between myself and Mary Frances Rook, Acting Chief, FBI Office of Professional Responsibility.

That GSA having confirmed my FOIA for GSA Intel Cartel; will respond as the Automated Web Response indicated within 30 days. If not you have to wonder about the potential of three fiduciary failures occurring in a row.

Regards,

Mike Bruzzone
Camp Marketing Consultancy

PROOFS OF RELATOR – Court of Appeals for the Federal Circuit October 7, 2014

Case: 14-1608 Document: 28 Page: 1 Filed: 10/07/2014

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

**MICHAEL A. BRUZZONE, RELATOR ORIGINAL
SOURCE,
*Plaintiff-Appellant,***

v.

**INTEL CORPORATION AND ARM, INC.,
*Defendants-Appellees.***

2014-1608

Appeal from the United States District Court for the Northern District of California in Nos. 3:14-cv-01279-WHA and 3:14-cv-03729-WHA, Judge William H. Alsup.

ON MOTION

Before PROST, *Chief Judge*, DYK AND MOORE, *Circuit
Judges.*

PER CURIAM.

ORDER

Intel Corporation moves to dismiss this appeal for lack of jurisdiction. Michael A. Bruzzone moves for leave to proceed in forma pauperis.

Bruzzone appeals from the United States District Court for the Northern District of California's dismissal of his action for failure to file an amended complaint. In his original complaint, Bruzzone filed a *qui tam* action against Intel Corporation as a relator under the False Claims Act, 31 U.S.C. §§ 3729–3733. This court is a court of limited jurisdiction, which does not include jurisdiction in this matter. 28 U.S.C. § 1295.

Pursuant to 28 U.S.C. § 1631, this court is authorized to transfer the case to a court in which the appeal could have been brought.

Upon consideration thereof,

IT IS ORDERED THAT:

- (1) The motion to dismiss is denied.
- (2) The appeal and all pending motions are transferred pursuant to 28 U.S.C. § 1631 to the United States Court of Appeals for the Ninth Circuit.

FOR THE COURT

/s/ Daniel E. O'Toole
Daniel E. O'Toole
Clerk of Court

s26

2013 qui tarn filing testing for U.S. Attorney intervention on EUCC 37.990 and FTC Docket 9341 v Intel Corp. affirmative decisions Intel Inside® “avoidable consumer cost charge”

1 R. Kenneth Bauer, Esq., SBN 118620
2 LAW OFFICES OF R. KENNETH BAUER
3 500 Ygnacio Valley Road, Suite 328
Walnut Creek, California 94596
4 Telephone: (925) 945-7945
Facsimile: (925) 940-9632
Email: rkbauerlaw@gmail.com
5 Attorneys for Relator BRUZZONE

CONFIDENTIAL UNDER
SEAL ORDER
**ORIGINAL
FILED**

AUG 12 2013

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA

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9 United States, ex rel. **CV 13 3729**
10 Michael A. Bruzzone, as Cas. No.
Relator Original Source,
11 BRINGING THIS ACTION ON BEHALF QUI TAM COMPLAINT TO RECOVER
12 of the UNITED STATES OF AMERICA, DAMAGES FOR ANT-COMPETITIVE
13 c/o Honorable Melinda Haag, ACTIONS AND RETALIATION
United States Attorney
Northern District of California,
14 and ORIGINAL COMPLAINT FILED
15 c/o Honorable Eric Holder IN CAMERA AND SEALED PURSUANT
United States Attorney General TO 31 U.S.C. § 3730(b)(2)
16 U.S. Department of Justice
17 Plaintiffs,
18 vs.
19 INTEL CORPORATION
20 Defendants.
21
22

23 QUI TAM COMPLAINT
24
25
26

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APPENDIX – NINTH CIRCUIT

Northern California District ORDER DISMISSING CASE	18-cv-01235 PJH	Oct. 31, 2018
Petitioner Notice of Appeal	18-cv-01235 PJH	Nov. 27, 2018
N.C.D. ORDER Grants <i>forma pauperis</i>	18-cv-01235 PJH 9 th Cir. 18-17293	Jan. 8, 2019
Plaintiff Appellants Bruzzone Opening Brief	9 th Cir. 18-17293	Feb. 12, 2019
Appellants Appendix	9 th Cir. 18-17293	Feb. 12, 2019
Defendant Appellees Faulkner, McManis Answering Brief	9 th Cir. 18-17293	Apr. 18, 2019
Defendant Appellees Faulkner, McManis Supplement Excerpts of Record; Vol. I – V	9 th Cir. 18-17293	Apr. 26, 2019
Defendant Appellees Judge William Alsup Answering Brief	9 th Cir. 18-17293	Apr. 19, 2019
Judge William Alsup Supplement Excerpts of the Record	9 th Cir. 18-17293	Apr. 19, 2019
Judge William Alsup Supplement Excerpts of Record; Vol. I and II	9 th Cir. 18-17293	Apr. 26, 2019
ORDER; Acknowledges Judge Alsup Answering Brief seeks Bound copies	9 th Cir. 18-17293	Apr. 26, 2019

APPENDIX – NINTH CIRCUIT

Appellants Reply Brief	9 th Cir. 18-17293	May 10, 2019
Appellants Supplement Exhibits in Support	9 th Cir. 18-17293	May 10, 2019
MEMORANDUM; PANEL DECISION	9 th Cir. 18-17293	Nov. 26, 2019
Appellants Petition for Panel Rehearing	9 th Cir. 18-17293	Dec. 9, 2019
ORDER; Denying Panel Rehearing	9 th Cir. 18-17293	Feb. 24, 2020
Appellants Petition En Banc Consideration	9 th Cir. 18-17293	Mar. 2, 2020
Appellants Petition Stay of Mandate	9 th Cir. 18-17293	Mar. 2, 2020
ORDER; Stay of Mandate Denied	9 th Cir. 18-17293	Mar. 13, 2020

NINTH CIRCUIT ORDERS follow;
all scans are true and correct copies

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

MAR 13 2020

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

MICHAEL A. BRUZZONE,

Plaintiff-Appellant,

v.

JAMES McMANIS; et al.,

Defendants-Appellees,

and

UNITED STATES OF AMERICA,

Real-party-in-interest.

No. 18-17293

D.C. No. 4:18-cv-01235-PJH
Northern District of California,
Oakland

ORDER

Before: CANBY, TASHIMA, and CHRISTEN, Circuit Judges.

Bruzzone's motions to stay the mandate pending filing of a petition for a writ of certiorari (Docket Entry Nos. 28 and 29) are denied.

No further filings will be entertained in this closed case.

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

FEB 24 2020

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

MICHAEL A. BRUZZONE,

No. 18-17293

Plaintiff-Appellant,

D.C. No. 4:18-cv-01235-PJH
Northern District of California,
Oakland

v.

JAMES McMANIS; et al.,

ORDER

Defendants-Appellees,

and

UNITED STATES OF AMERICA,

Real-party-in-interest.

Before: CANBY, TASHIMA, and CHRISTEN, Circuit Judges.

Bruzzone's petition for panel rehearing (Docket Entry No. 26) is denied.

No further filings will be entertained in this closed case.

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

NOV 26 2019

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

MICHAEL A. BRUZZONE,

Plaintiff-Appellant,

v.

JAMES McMANIS; et al.,

Defendants-Appellees,

and

UNITED STATES OF AMERICA,

Real-party-in-interest.

No. 18-17293

D.C. No. 4:18-cv-01235-PJH

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Phyllis J. Hamilton, District Judge, Presiding

Submitted November 18, 2019**

Before: CANBY, TASHIMA, and CHRISTEN, Circuit Judges.

Michael A. Bruzzone appeals pro se from the district court's judgment

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

dismissing his action, declaring him a vexatious litigant, and entering a pre-filing review order against him. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal under Fed. Rule Civ. P. 12(b)(6), *Hebbe v. Pliler*, 627 F.3d 338, 341 (9th Cir. 2010), and on the basis of judicial immunity, *Mullis v. U.S. Bankr. Ct. for Dist. of Nev.*, 828 F.2d 1385, 1388 (9th Cir. 1987). We review for an abuse of discretion a pre-filing review order entered against a vexatious litigant. *Ringgold-Lockhart v. County of Los Angeles*, 761 F.3d 1057, 1062 (9th Cir. 2014). We affirm.

The district court properly dismissed Bruzzone's claims against Judge Alsup as barred by judicial immunity because Judge Alsup's challenged actions were taken in his judicial capacity. *See Mireles v. Waco*, 502 U.S. 9, 11-12 (1991) (discussing judicial immunity and its limited exceptions).

The district court properly dismissed Bruzzone's claims against McManis and Faulkner because Bruzzone failed to allege facts sufficient to state a plausible claim for relief. *See Hebbe*, 627 F.3d at 341-42 (although pro se pleadings are to be construed liberally, a plaintiff must present factual allegations sufficient to state a plausible claim for relief); *see also Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (plaintiff must allege facts that "allow[] the court to draw the reasonable inference that the defendant is liable for the misconduct alleged").

The district court did not abuse its discretion by declaring Bruzzone a

vexatious litigant and entering a pre-filing review order against him because all of the requirements for entering a pre-filing review order were met. *See Ringgold-Lockhart*, 761 F.3d at 1062 (setting forth requirements for pre-filing review orders).

We do not consider matters not specifically and distinctly raised and argued in the opening brief. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

AFFIRMED.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JAN 8 2019

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

MICHAEL A. BRUZZONE,

Plaintiff-Appellant,

v.

JAMES MCMANIS; et al.,

Defendants-Appellees,

and

UNITED STATES OF AMERICA,

Real-party-in-interest.

No. 18-17293

D.C. No. 4:18-cv-01235-PJH
Northern District of California,
Oakland

ORDER

A review of the district court docket reflects that the district court granted appellant leave to proceed in forma pauperis on appeal. *See* Fed. R. App. P. 24(a)(2). Appellant's motion to proceed in forma pauperis on appeal (Docket Entry No. 2) is therefore unnecessary.

The opening brief is due February 19, 2019; the answering brief is due March 21, 2019; and the optional reply brief is due within 21 days after service of the answering brief.

Because appellant is proceeding without counsel, the excerpts of record requirement is waived. *See* 9th Cir. R. 30-1.2. Appellee's supplemental excerpts of record are limited to the district court docket sheet, the notice of appeal, the

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judgment or order appealed from, and any specific portions of the record cited in appellee's brief. *See* 9th Cir. R. 30-1.7.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

By: Lior A. Brinn
Deputy Clerk
Ninth Circuit Rule 27-7

ADRMOP,APPEAL,CLOSED,ProSe

U.S. District Court
California Northern District (Oakland)
CIVIL DOCKET FOR CASE #: 4:18-cv-01235-PJH
Internal Use Only

Bruzzone v. McManis et al
Assigned to: Judge Phyllis J. Hamilton
Cause: 42:1981 Civil Rights

Date Filed: 02/26/2018
Date Terminated: 10/31/2018
Jury Demand: Plaintiff
Nature of Suit: 320 Assault Libel & Slander
Jurisdiction: Federal Question

Hearings	Dates	Deadlines	Dates
		Motion Ripe Deadline (61)	11/27/2018

Plaintiff**Michael A. Bruzzone**

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V.

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Defendant

William Faulkner

represented by **Janet Lynn Everson , Esq.**
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ATTORNEY TO BE NOTICED

Defendant**William H. Alsup****Defendant****Intel Corporation**
 TERMINATED: 04/10/2018**Interested Party****United States of America**

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Date Filed	#	Docket Text
02/26/2018	<u>1</u>	MOTION to File New Civil Complaint filed by Michael A. Bruzzone. Responses due by 3/12/2018. Replies due by 3/19/2018. Civil case opened per Order in Case 18-mc-80005 (sxbs, COURT STAFF) (Filed on 2/26/2018) (Entered: 02/26/2018)
02/26/2018	<u>2</u>	COMPLAINT against William H. Alsup, William Faulkner, James McManis (Filing fee: IFPP). Filed by Michael A. Bruzzone. Consent/Declination due by 3/12/2018. (sxbs, COURT STAFF) (Filed on 2/26/2018) (Entered: 02/26/2018)
02/26/2018	<u>3</u>	MOTION for Leave to Proceed in forma pauperis filed by Michael A. Bruzzone. (sxbs, COURT STAFF) (Filed on 2/26/2018) Modified on 4/11/2018 (kcS, COURT STAFF). (Entered: 02/26/2018)
02/26/2018	<u>4</u>	Initial Case Management Scheduling Order with ADR Deadlines: Case

		Management Statement due by 5/22/2018. Initial Case Management Conference set for 5/29/2018 10:00 AM in San Francisco, Courtroom E, 15th Floor. (sxbS, COURT STAFF) (Filed on 2/26/2018) (Entered: 02/26/2018)
02/26/2018		(Court only) ***Motions terminated: <u>1</u> MOTION to File New Civil Complaint filed by Michael A. Bruzzone. (kcS, COURT STAFF) (Filed on 2/26/2018) (Entered: 03/28/2018)
03/01/2018	<u>5</u>	CONSENT/DECLINATION to Proceed Before a US Magistrate Judge by William Faulkner, James McManis.. (Attachments: # <u>1</u> Certificate/Proof of Service)(Tagliere, Susan) (Filed on 3/1/2018) (Entered: 03/01/2018)
03/06/2018	<u>6</u>	CONSENT/DECLINATION to Proceed Before a US Magistrate Judge; by Michael A. Bruzzone. (aaaS, COURT STAFF) (Filed on 3/6/2018) (Entered: 03/08/2018)
03/06/2018	<u>7</u>	CERTIFICATE OF SERVICE; by Michael A. Bruzzone (aaaS, COURT STAFF) (Filed on 3/6/2018) (Entered: 03/08/2018)
03/27/2018	<u>8</u>	Filing fee: \$ 400.00, receipt number 34611132309. (aaaS, COURT STAFF) (Filed on 3/27/2018) (aaaS, COURT STAFF). (Entered: 03/27/2018)
03/27/2018	<u>9</u>	Summons Issued as to William H. Alsup. (aaaS, COURT STAFF) (Filed on 3/27/2018) (Entered: 03/27/2018)
03/27/2018	<u>10</u>	WAIVER OF SERVICE ; filed by Michael A. Bruzzone. Service waived by William Faulkner waiver sent on 3/27/2018, answer due 5/29/2018; James McManis waiver sent on 3/27/2018, answer due 5/29/2018. (aaaS, COURT STAFF) (Filed on 3/27/2018) (Entered: 03/27/2018)
03/27/2018	<u>11</u>	CLERK'S NOTICE of Impending Reassignment to U.S. District Judge (Attachments: # <u>1</u> Certificate/Proof of Service) (tlS, COURT STAFF) (Filed on 3/27/2018) (Entered: 03/27/2018)
03/28/2018	<u>12</u>	ORDER REASSIGNING CASE. Case reassigned to Judge Phyllis J. Hamilton for all further proceedings. Magistrate Judge Elizabeth D. Laporte no longer assigned to the case.. Signed by the Executive Committee on 3/28/18. (srnS, COURT STAFF) (Filed on 3/28/2018) (Entered: 03/28/2018)
03/28/2018	<u>13</u>	ORDER SETTING CASE MANAGEMENT CONFERENCE. Joint Case Management Statement due by 5/24/2018. Initial Case Management Conference set for 5/31/2018 at 02:00 PM in Oakland, Courtroom 3, 3rd Floor. Signed by Judge Phyllis J. Hamilton on 3/28/18. (Certificate of Service attached) (kcS, COURT STAFF) (Filed on 3/28/2018) (Entered: 03/28/2018)
04/02/2018	<u>14</u>	MOTION to Dismiss <i>Civil Rights Complaint Pursuant to Rule 12(b)(1) and 12(b)(6)</i> filed by William Faulkner, James McManis. Motion Hearing set for 5/2/2018 09:00 AM in Oakland, Courtroom 2, 4th Floor before Judge Phyllis J. Hamilton. Responses due by 4/16/2018. Replies due by 4/23/2018. (Attachments: # <u>1</u> Proposed Order, # <u>2</u> Declaration, # <u>3</u> Supplement Request for Judicial Notice)(Koodrich, Benjamin) (Filed on 4/2/2018) (Entered: 04/02/2018)
04/02/2018	<u>15</u>	***DISREGARD, ENTERED IN ERROR WITH INCORRECT CASE NUMBER. SEE DOCKET <u>17</u> FOR CORRECTED ENTRY*** MOTION for Declaratory Judgment to <i>Declare Michael Bruzzone a Vexatious Litigant</i> filed by William Faulkner, James McManis. Motion Hearing set for 5/2/2018 09:00 AM in Oakland, Courtroom 3, 3rd Floor before Judge Phyllis J. Hamilton. Responses due by 4/16/2018. Replies due by 4/23/2018. (Attachments: # <u>1</u> Declaration, # <u>2</u> Proposed Order, # <u>3</u> Supplement Request for Judicial Notice)(Koodrich, Benjamin) (Filed on 4/2/2018) Modified on 4/3/2018 (kcS, COURT STAFF). (Entered: 04/02/2018)
04/03/2018	<u>16</u>	Renotice motion hearing re <u>14</u> MOTION to Dismiss <i>Civil Rights Complaint Pursuant to Rule 12(b)(1) and 12(b)(6)</i> filed by William Faulkner, James McManis. (Related document(s) <u>14</u>) (Tagliere, Susan) (Filed on 4/3/2018) (Entered: 04/03/2018)

04/03/2018	<u>17</u>	MOTION to Declare Michael Bruzzone a Vexatious Litigant filed by William Faulkner, James McManis. Motion Hearing set for 5/30/2018 09:00 AM in Oakland, Courtroom 3, 3rd Floor before Judge Phyllis J. Hamilton. Responses due by 4/16/2018. Replies due by 4/23/2018. (Attachments: # <u>1</u> Supplement Request for Judicial Notice, # <u>2</u> Declaration, # <u>3</u> Proposed Order)(Tagliere, Susan) (Filed on 4/3/2018) Modified on 4/3/2018 (kcS, COURT STAFF). Modified on 4/4/2018 (cjIS, COURT STAFF). (Entered: 04/03/2018)
04/03/2018		(Court only) ***Motions terminated: <u>15</u> MOTION for Declaratory Judgment to Declare Michael Bruzzone a Vexatious Litigant filed by William Faulkner, James McManis. (kcS, COURT STAFF) (Filed on 4/3/2018) (Entered: 04/03/2018)
04/03/2018	<u>18</u>	FIRST AMENDED COMPLAINT (Bench Trial Demand) against William H. Alsup, William Faulkner, James McManis, Intel Corporation. Filed by Michael A. Bruzzone. (cjIS, COURT STAFF) (Filed on 4/3/2018) Modified on 4/3/2018 (cjIS, COURT STAFF). (Entered: 04/03/2018)
04/03/2018		(Court only) ***Party Intel Corporation added. (cjIS, COURT STAFF) (Filed on 4/3/2018) (Entered: 04/03/2018)
04/03/2018	<u>19</u>	CERTIFICATE OF SERVICE by Michael A. Bruzzone re <u>18</u> First Amended Complaint. (cjIS, COURT STAFF) (Filed on 4/3/2018) (Entered: 04/03/2018)
04/03/2018		Set/Reset Deadlines as to <u>14</u> MOTION to Dismiss <i>Civil Rights Complaint Pursuant to Rule 12(b)(1) and 12(b)(6)</i> . Motion Hearing set for 5/30/2018 at 09:00 AM in Oakland, Courtroom 3, 3rd Floor before Judge Phyllis J. Hamilton. (kcS, COURT STAFF) (Filed on 4/3/2018) (Entered: 04/04/2018)
04/10/2018	<u>20</u>	ORDER DISMISSING CLAIMS AGAINST INTEL AND ORDER TO SHOW CAUSE WHY CLAIMS AGAINST JUDGE ALSUP SHOULD NOT BE DISMISSED. Signed by Judge Phyllis J. Hamilton on 4/10/2018. (pjhlcl, COURT STAFF) (Filed on 4/10/2018) (Additional attachment(s) added on 4/11/2018: # <u>1</u> Certificate/Proof of Service) (kcS, COURT STAFF). (Entered: 04/10/2018)
04/10/2018		(Court only) *** Party Intel Corporation terminated. (kcS, COURT STAFF) (Filed on 4/10/2018) (Entered: 04/11/2018)
04/10/2018		Set Deadlines/Hearings: Show Cause Response due by 5/1/2018. (kcS, COURT STAFF) (Filed on 4/10/2018) (Entered: 04/11/2018)
04/11/2018	<u>21</u>	Addendum to Request for Judicial Notice re <u>17</u> MOTION to Declare Michael Bruzzone a Vexatious Litigant filed by William Faulkner, James McManis. (Attachments: # <u>1</u> Certificate/Proof of Service)(Related document(s) <u>17</u>) (Tagliere, Susan) (Filed on 4/11/2018) Modified on 4/12/2018 (cjIS, COURT STAFF). (Entered: 04/11/2018)
04/12/2018	<u>22</u>	MOTION to Dismiss <i>Pursuant to Rule 12(b)(1) and 12(b)(6)</i> filed by William Faulkner, James McManis. Motion Hearing set for 6/7/2018 09:00 AM in Oakland, Courtroom 3, 3rd Floor before Judge Phyllis J. Hamilton. Responses due by 4/26/2018. Replies due by 5/3/2018. (Attachments: # <u>1</u> Supplement Request for Judicial Notice, # <u>2</u> Declaration, # <u>3</u> Proposed Order, # <u>4</u> Certificate/Proof of Service)(Tagliere, Susan) (Filed on 4/12/2018) (Entered: 04/12/2018)
04/13/2018	<u>23</u>	Renotice motion hearing re <u>22</u> MOTION to Dismiss <i>Pursuant to Rule 12(b)(1) and 12(b)(6)</i> filed by William Faulkner, James McManis. (Attachments: # <u>1</u> Certificate/Proof of Service)(Related document(s) <u>22</u>) (Tagliere, Susan) (Filed on 4/13/2018) (Entered: 04/13/2018)
04/13/2018	<u>24</u>	Notice of Withdrawal of Motion <i>To Dismiss Complaint Pursuant to Rule 12(b)(1) and 12(b)(6)</i> (Attachments: # <u>1</u> Certificate/Proof of Service)(Tagliere, Susan) (Filed on 4/13/2018) (Entered: 04/13/2018)
04/13/2018		Set/Reset Deadlines as to <u>22</u> MOTION to Dismiss <i>Pursuant to Rule 12(b)(1) and 12(b)(6)</i> . Motion Hearing set for 6/6/2018 at 09:00 AM in Oakland, Courtroom 3, 3rd Floor

		before Judge Phyllis J. Hamilton. (kcS, COURT STAFF) (Filed on 4/13/2018) (Entered: 04/13/2018)
04/16/2018	<u>25</u>	OPPOSITION/RESPONSE (re <u>17</u> MOTION to Declare Michael Bruzzone a Vexatious Litigant, <u>22</u> MOTION to Dismiss Pursuant to Rule 12(b)(1) and 12(b)(6)) filed by Michael A. Bruzzone. (cjIS, COURT STAFF) (Filed on 4/16/2018) (Entered: 04/16/2018)
04/18/2018	<u>26</u>	CERTIFICATE OF SERVICE by Michael A. Bruzzone. (cjIS, COURT STAFF) (Filed on 4/18/2018) (Entered: 04/18/2018)
04/20/2018	<u>27</u>	CLERK'S NOTICE that on June 6, 2018 at 9:00 A.M., in Courtroom No. 3 on the 3rd floor of the Federal Building, 1301 Clay Street, Oakland, California, the HONORABLE PHYLLIS J. HAMILTON will conduct the Hearing on Motion to Declare Michael Bruzzone a Vexatious Litigant previously noticed for May 30, 2018, in this matter. Set/Reset Deadlines as to <u>17</u> MOTION to Declare Michael Bruzzone a Vexatious Litigant hearing set for 6/6/2018 at 09:00 AM in Oakland, Courtroom 3, 3rd Floor before Judge Phyllis J. Hamilton. (kcS, COURT STAFF) (Filed on 4/20/2018) (Entered: 04/20/2018)
04/23/2018	<u>28</u>	REPLY (re <u>17</u> MOTION to Declare Michael Bruzzone a Vexatious Litigant) filed by William Faulkner, James McManis. (Attachments: # <u>1</u> Certificate/Proof of Service) (Tagliere, Susan) (Filed on 4/23/2018) (Entered: 04/23/2018)
04/27/2018	<u>29</u>	RESPONSE to Judge Hamilton Order Establishes Cause Why Judge Alsup Must Not be Dismissed re <u>20</u> Order to Show Cause by Michael A. Bruzzone. (jmlS, COURT STAFF) (Filed on 4/27/2018) Modified on 5/1/2018 (cjIS, COURT STAFF). (Entered: 04/30/2018)
05/03/2018	<u>30</u>	REPLY (re <u>22</u> MOTION to Dismiss Pursuant to Rule 12(b)(1) and 12(b)(6)) filed by William Faulkner, James McManis. (Attachments: # <u>1</u> Certificate/Proof of Service) (Tagliere, Susan) (Filed on 5/3/2018) (Entered: 05/03/2018)
05/04/2018	<u>31</u>	ADR Certification (ADR L.R. 3-5 b) of discussion of ADR options (Attachments: # <u>1</u> Certificate/Proof of Service)(Tagliere, Susan) (Filed on 5/4/2018) (Entered: 05/04/2018)
05/04/2018	<u>32</u>	ADR Certification (ADR L.R. 3-5 b) of discussion of ADR options (Attachments: # <u>1</u> Certificate/Proof of Service)(Tagliere, Susan) (Filed on 5/4/2018) (Entered: 05/04/2018)
05/04/2018	<u>33</u>	NOTICE of need for ADR Phone Conference (ADR L.R. 3-5 d) (Attachments: # <u>1</u> Certificate/Proof of Service)(Tagliere, Susan) (Filed on 5/4/2018) (Entered: 05/04/2018)
05/07/2018	 <u>34</u>	ADR Clerk's Notice Setting ADR Phone Conference on Friday, May 25, 2018, at 11:00 AM Pacific time. Please note that you must be logged into an ECF account of counsel of record in order to view this document. (Attachments: # <u>1</u> Certificate/Proof of Service) (af, COURT STAFF) (Filed on 5/7/2018) (Entered: 05/07/2018)
05/08/2018	<u>35</u>	ADR Certification (ADR L.R. 3-5 b) of discussion of ADR options. (cjI, COURT STAFF) (Filed on 5/8/2018) (Entered: 05/08/2018)
05/08/2018	<u>36</u>	Initial Conference Report filed by Michael A. Bruzzone. (cjI, COURT STAFF) (Filed on 5/8/2018) (Entered: 05/08/2018)
05/15/2018	<u>37</u>	NOTICE of need for ADR Phone Conference (ADR L.R. 3-5 d). (cjIS, COURT STAFF) (Filed on 5/15/2018) (Entered: 05/16/2018)
05/15/2018	<u>38</u>	Bruzzone Supplement Declaration Opposes <u>22</u> MOTION to Dismiss Pursuant to Rule 12(b)(1) and 12(b)(6) filed by Michael A. Bruzzone. (Related document(s) <u>22</u>) (cjIS, COURT STAFF) (Filed on 5/15/2018) (Entered: 05/16/2018)
05/22/2018	<u>39</u>	REPORT of Rule 26(f) Planning Meeting . (Attachments: # <u>1</u> Certificate/Proof of Service)(Everson, Janet) (Filed on 5/22/2018) (Entered: 05/22/2018)

05/22/2018	<u>40</u>	CASE MANAGEMENT STATEMENT filed by Michael A. Bruzzone. (cjIS, COURT STAFF) (Filed on 5/22/2018) (Entered: 05/22/2018)
05/22/2018	<u>41</u>	CASE MANAGEMENT STATEMENT filed by William Faulkner, James McManis. (Attachments: # <u>1</u> Certificate/Proof of Service)(Everson, Janet) (Filed on 5/22/2018) (Entered: 05/22/2018)
05/24/2018	<u>42</u>	CERTIFICATE OF SERVICE by Michael A. Bruzzone re <u>40</u> Case Management Statement. (cjIS, COURT STAFF) (Filed on 5/24/2018) (Entered: 05/24/2018)
05/25/2018	<u>43</u>	ADR Remark: ADR Phone Conference held on 5/25/2018 by Howard Herman. (af, COURT STAFF) (Filed on 5/25/2018) (<i>This is a text-only entry generated by the court. There is no document associated with this entry.</i>) (Entered: 05/25/2018)
05/29/2018		(Court only) ***Motion hearing set for 6/6/2018 at 9:00 a.m. is vacated. (kcS, COURT STAFF) (Filed on 5/29/2018) (Entered: 05/30/2018)
05/30/2018	<u>44</u>	DISREGARD, ENTERED IN ERROR. SEE DOCKET <u>46</u> FOR CORRECTED ENTRY*** CLERK'S NOTICE. YOU ARE HEREBY NOTIFIED that the Hearing on Plaintiff's Motion to Declare Michael Bruzzone a Vexatious Litigant and Plaintiff's Motion to Dismiss Pursuant to Rule 12(b)(1) and 12(b)(6) set for June 6, 2018 at 9:00 A.M., in Courtroom No. 3 on the 3rd floor of the Federal Building, 1301 Clay Street, Oakland, California before the HONORABLE PHYLLIS J. HAMILTON is VACATED. (Certificate of Service attached) (kcS, COURT STAFF) (Filed on 5/30/2018) Modified on 5/30/2018 (kcS, COURT STAFF). (Entered: 05/30/2018)
05/30/2018	<u>45</u>	CLERK'S NOTICE. YOU ARE HEREBY NOTIFIED that the Case Management Conference set for May 31, 2018 at 2:00 P.M., in Courtroom No. 3 on the 3rd floor of the Federal Building, 1301 Clay Street, Oakland, California, before the HONORABLE PHYLLIS J. HAMILTON is VACATED. Case Management Conference will be rescheduled, if necessary, after the Court rules on the pending motions in this case. (kcS, COURT STAFF) (Filed on 5/30/2018) (Entered: 05/30/2018)
05/30/2018	<u>46</u>	CLERK'S NOTICE. YOU ARE HEREBY NOTIFIED that the Hearing on Defendants' Motion to Declare Michael Bruzzone a Vexatious Litigant and Defendants' Motion to Dismiss Pursuant to Rule 12(b)(1) and 12(b)(6) set for June 6, 2018 at 9:00 A.M., in Courtroom No. 3 on the 3rd floor of the Federal Building, 1301 Clay Street, Oakland, California before the HONORABLE PHYLLIS J. HAMILTON is VACATED. (kcS, COURT STAFF) (Filed on 5/30/2018) (Entered: 05/30/2018)
06/05/2018	<u>47</u>	OPPOSITION/RESPONSE (re <u>17</u> MOTION to Declare Michael Bruzzone a Vexatious Litigant, <u>22</u> MOTION to Dismiss Pursuant to Rule 12(b)(1) and 12(b)(6)) filed by Michael A. Bruzzone. (cjIS, COURT STAFF) (Filed on 6/5/2018) (Entered: 06/05/2018)
06/12/2018	<u>48</u>	Correspondence to Defendants and Court of June 12, 2018 - Meet and Confer Stipulated Settlement by Michael A. Bruzzone. (cjIS, COURT STAFF) (Filed on 6/12/2018) (Entered: 06/12/2018)
06/21/2018	<u>49</u>	Notice of MOTION Seeks Court Order Service of Judge Mr. Alsup, in individual, attached Summons in a Civil Action No. 18-01235 by United States Marshall filed by Michael A. Bruzzone. Responses due by 7/5/2018. Replies due by 7/12/2018. (cjIS, COURT STAFF) (Filed on 6/21/2018) (Entered: 06/22/2018)
06/21/2018	<u>50</u>	CERTIFICATE OF SERVICE by Michael A. Bruzzone. (cjIS, COURT STAFF) (Filed on 6/21/2018) (Entered: 06/22/2018)
06/22/2018	<u>51</u>	NOTICE Regarding Service by United States of America. (Winslow, Sara) (Filed on 6/22/2018) Modified on 6/25/2018 (cjIS, COURT STAFF). (Entered: 06/22/2018)
08/20/2018	<u>52</u>	MOTION to Dismiss filed by United States of America. Motion Hearing set for 10/10/2018 09:00 AM in Oakland, Courtroom 3, 3rd Floor before Judge Phyllis J.

		Hamilton. Responses due by 9/4/2018. Replies due by 9/11/2018. (Attachments: # <u>1</u> Certificate/Proof of Service)(Scharf, James) (Filed on 8/20/2018) (Entered: 08/20/2018)
09/04/2018	<u>53</u>	OPPOSITION/RESPONSE (re <u>52</u> MOTION to Dismiss) filed by Michael A. Bruzzone. (cjIS, COURT STAFF) (Filed on 9/4/2018) (Entered: 09/04/2018)
09/11/2018	<u>54</u>	Federal Defendant's Reply Supporting <u>52</u> Motion to Dismiss filed by United States of America. (Attachments: # <u>1</u> Certificate/Proof of Service)(Scharf, James) (Filed on 9/11/2018) Modified on 9/11/2018 (cjIS, COURT STAFF). (Entered: 09/11/2018)
09/19/2018	<u>55</u>	Supplement Law on Facts Objection Federal Defendant's Motion to Dismiss filed by Michael A. Bruzzone. (cjIS, COURT STAFF) (Filed on 9/19/2018) (Entered: 09/19/2018)
10/04/2018	<u>56</u>	CLERK'S NOTICE VACATING HEARING. YOU ARE HEREBY NOTIFIED that the hearing on United States of America's Motion to Dismiss set for October 10, 2018 at 9:00 A.M., in Courtroom No. 3 on the 3rd floor of the Federal Building, 1301 Clay Street, Oakland, California, the HONORABLE PHYLLIS J. HAMILTON is VACATED. The Court will issue a written decision on the papers. (Certificate of Service Attached). (kcS, COURT STAFF) (Filed on 10/4/2018) (Entered: 10/04/2018)
10/19/2018	<u>57</u>	NOTICE to Court Continuing U.S. 5th Amendment Denial by Intel Corporation Associate Network Bruzzone Claims Jurist FRCP 18 U.S.C. section 1001a, FCRP 60(b) (3) Fraud to Disable Justice Process by Michael A. Bruzzone. (cjIS, COURT STAFF) (Filed on 10/19/2018) (Entered: 10/19/2018)
10/31/2018	<u>58</u>	ORDER DISMISSING ACTION AND IMPOSING PRE-FILING REVIEW REQUIREMENTS ON CERTAIN FUTURE ACTIONS FILED BY MICHAEL BRUZZONE. (pjhl1, COURT STAFF) (Filed on 10/31/2018) (Additional attachment(s) added on 10/31/2018: # <u>1</u> Certificate/Proof of Service) (kcS, COURT STAFF). (Entered: 10/31/2018)
10/31/2018	<u>59</u>	JUDGMENT. Signed by Judge Phyllis J. Hamilton on 10/31/2018. (pjhl1, COURT STAFF) (Filed on 10/31/2018) (Additional attachment(s) added on 10/31/2018: # <u>1</u> Certificate/Proof of Service) (kcS, COURT STAFF). (Entered: 10/31/2018)
10/31/2018		(Court only) ***Civil Case Terminated. (kcS, COURT STAFF) (Filed on 10/31/2018) (Entered: 10/31/2018)
11/27/2018	<u>60</u>	NOTICE OF APPEAL to the 9th Circuit Court of Appeals filed by Michael A. Bruzzone. Appeal of Order on Motion for Miscellaneous Relief, Order on Motion to Dismiss, Order on Motion for Declaratory Judgment, <u>58</u> Judgment, <u>59</u> . (IFP Request e-filed with the Court). (cjIS, COURT STAFF) (Filed on 11/27/2018) (Entered: 11/27/2018)
11/27/2018	 <u>61</u>	MOTION for Leave to Appeal in forma pauperis filed by Michael A. Bruzzone. (cjIS, COURT STAFF) (Filed on 11/27/2018) (Entered: 11/27/2018)
11/27/2018	<u>62</u>	NOTICE to the Court. Legal Treatise: Pre Congress Briefing by Michael A. Bruzzone. (cjIS, COURT STAFF) (Filed on 11/27/2018) (Entered: 11/27/2018)
11/27/2018	<u>63</u>	CERTIFICATE OF SERVICE by Michael A. Bruzzone re <u>62</u> Notice (Other), <u>60</u> Notice of Appeal. (cjIS, COURT STAFF) (Filed on 11/27/2018) (Entered: 11/27/2018)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MICHAEL A. BRUZZONE,
Plaintiff,

Case No. 18-cv-01235-PJH

1

JAMES MCMANIS, et al.,
Defendants.

JUDGMENT

The issues having been duly heard and the court having dismissed plaintiff's complaint with prejudice,

it is Ordered and Adjudged

that plaintiff take nothing, and that the action is dismissed with prejudice.

IT IS SO ORDERED.

Dated: October 31, 2018


LINDA L. HAMILTON

PHYLLIS J. HAMILTON
United States District Judge

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OCT 31 2018

SUSAN Y. GOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MICHAEL A. BRUZZONE,
Plaintiff,

v.
JAMES McMANIS, et al.,
Defendants.

Case No. 18-cv-01235-PJH

ORDER DISMISSING ACTION AND
IMPOSING PRE-FILING REVIEW
REQUIREMENTS ON CERTAIN
FUTURE ACTIONS FILED BY
MICHAEL BRUZZONE

Re: Dkt. Nos. 17, 22, 49, 52

Before the court are defendants William Faulkner and James McManis's motion to declare plaintiff Michael Bruzzone a vexatious litigant (Dkt. 17), Faulkner and McManis's motion to dismiss the complaint (Dkt. 22), defendant Judge William Alsup's motion to dismiss the complaint (Dkt. 52), Bruzzone's motion for an order of service on Judge Alsup (Dkt. 49), and Bruzzone's response to this court's order to show cause why the claims against Judge Alsup should not be dismissed (Dkt. 29). The matters are fully briefed and suitable for decision without oral argument. Having read the parties' papers and carefully considered their arguments and the relevant legal authority, and good cause appearing, the court hereby rules as follows.

BACKGROUND

A. Bruzzone's Other Litigation

Bruzzone has a long history litigating the facts giving rise to this action. He has filed several actions against Intel Corporation ("Intel"), its employees, its agents, its attorneys, and more recently judges that have presided over those actions. See Bruzzone v. Intel Corp., et al., Case No. 14-cv-01279-WHA, Dkt. 88 (Aug. 19, 2014 Order

1 statements in Judge Alsup's orders were incorrect and libelous. Plaintiff's original
2 complaint also asserted claims against James McManis and William Faulkner, two
3 attorneys who have represented Intel in previous actions.

4 Bruzzone is subject to a pre-filing order based on his filing a series of lawsuits
5 against Intel Corporation and its employees, as explained above. Case No. 14-cv-01279-
6 WHA, Dkt. 88. Plaintiff's original complaint in this action named as defendants James
7 McManis, William Faulkner, and Judge William Alsup. Dkt. 2. None of those three
8 defendants technically fall under the scope of the 2014 pre-filing order. When plaintiff
9 submitted his original complaint for pre-filing review, Judge Alsup noted that although it
10 echoed plaintiff's "previous attempts to sue Intel," the complaint was "deliberately drawn
11 to name as defendants only James McManis and William Faulkner—attorneys who
12 previously represented Intel—as well as [Judge Alsup]." Bruzzone v. McManis, Case
13 No. 18-mc-80005-WHA (N.D. Cal., Jan. 4, 2018), Dkt. 9. Judge Alsup opined that the
14 "pre-filing order can no longer keep pace with Bruzzone's tireless crusade of frivolous
15 lawsuits" and allowed the original complaint in this case to be filed "[o]ut of an abundance
16 of caution" because it did not specifically name Intel as a defendant. Id. at 2. This action
17 indeed echoes the same basic allegations against Intel as many of Bruzzone's prior suits.

18 On April 3, 2018, plaintiff amended his complaint in this action and named Intel
19 Corporation as a defendant. Dkt. 18 ("FAC"). The FAC is a single page and purports to
20 "amend" the "original complaint" "solely . . . in relation to Intel Corporation" and its
21 "employee's vicarious attorney's schemes [sic][.]" Id. at 2. The FAC then provides two
22 paragraphs relating to allegations against Intel Corporation. Id.

23 This court conducted pre-filing review with respect to plaintiff's claims against Intel
24 in accordance with the August 19, 2014 pre-filing order and dismissed Intel from the
25 action. Dkt. 20. The court also ordered Bruzzone to show cause why Judge Alsup
26 should not be dismissed given that "Judge Alsup would be totally immune from any
27 plausible claim alleged by Bruzzone's complaint, [such that] Bruzzone cannot possibly
28 win relief and the complaint does not state a claim upon which relief can be granted." Id.

1 at 5. Bruzzone timely responded to the order to show cause. Dkt. 29.

2 On April 3, 2018, Faulkner and McManis moved the court to declare Bruzzone a
3 vexatious litigant. Dkt. 17. Bruzzone opposed the motion on April 16, 2018, and again
4 on June 5, 2018. Dkts. 25 & 47. On April 12, 2018, Faulkner and McManis moved to
5 dismiss the entire action. Dkt. 22. Bruzzone filed oppositions to the motion on April 16,
6 2018, May 15, 2018, and June 5, 2018. Dkts. 25, 38, 47. On June 21, 2018, Bruzzone
7 asked this court to order the United States Marshall to serve Judge Alsup with the
8 complaint in this action. Dkt. 49. Finally, Judge Alsup moved to dismiss the claims
9 against him on August 20, 2018. Dkt. 52.

10 **DISCUSSION**

11 There are three active defendants in this action and pending motions to dismiss
12 the complaint with respect to each—Judge Alsup, Faulkner, and McManis. Faulkner and
13 McManis also have a pending motion to declare Bruzzone a vexatious litigant. The court
14 first addresses whether Judge Alsup should be dismissed from the action. Second, the
15 court assesses whether Bruzzone's claims against Faulkner and McManis should be
16 dismissed. Finally, the court considers Faulkner and McManis's motion to declare
17 Bruzzone a vexatious litigant.

18 **A. Judge Alsup**

19 **1. Judicial Immunity**

20 Judges are absolutely immune from civil suits for damages. E.g., Stump v.
21 Sparkman, 435 U.S. 349 (1978). "Like other forms of official immunity, judicial immunity
22 is an immunity from suit, not just from ultimate assessment of damages." Mireles v.
23 Waco, 502 U.S. 9, 11–12 (1991) (citing Mitchell v. Forsyth, 472 U.S. 511, 526 (1985)).

24 "Though judicial prerogative is broad, two rules circumscribe it. First, the immunity
25 covers only those acts which are 'judicial' in nature." O'Neil v. City of Lake Oswego, 642
26 F.2d 367, 369 (9th Cir. 1981) (quoting Stump, 435 U.S. at 360–64) (citations and internal
27 quotation marks omitted). "[T]he factors determining whether an act by a judge is a
28 'judicial' one relate to the nature of the act itself, i.e., whether it is a function normally

1 performed by a judge, and to the expectations of the parties, i.e., whether they dealt with
2 the judge in his judicial capacity." Stump, 435 U.S. at 362. "Second, a judge will not be
3 deprived of immunity because the action he took was in error, was done maliciously, or
4 was in excess of his authority; rather, he will be subject to liability only when he acted in
5 the 'clear absence of all jurisdiction.'" O'Neil, 642 F.2d at 369 (quoting Stump, 435 U.S.
6 at 360–64) (citations and internal quotation marks omitted). "As long as the judge's
7 ultimate acts are judicial actions taken within the court's subject matter jurisdiction,
8 immunity applies." Ashelman v. Pope, 793 F.2d 1072, 1078 (9th Cir. 1986).

9 Bruzzone responded to this court's order to show cause why Judge Alsup should
10 not be dismissed primarily by pointing to six alleged "falsities" Judge Alsup published,
11 each of which can be found only in published orders adjudicating disputes—that is to say,
12 acts normally performed by a judge that are "judicial" in nature. See Dkt. 29 at 6.
13 Bruzzone's reply largely reiterated the facts alleged and arguments made in his various
14 complaints and numerous other filings, and it confirmed that Judge Alsup should be
15 dismissed from this action due to his total immunity. Bruzzone argues that Judge Alsup's
16 orders were insufficiently-reasoned, incorrect in outcome, and based on materially-false
17 facts. None of those arguments are sufficient to overcome judicial immunity.

18 Bruzzone does not seek damages from Judge Alsup, but wants to correct "case
19 records" including "Judge Alsup's own ORDERS that harm Mr. Bruzzone[.]" Dkt. 29 at
20 17. He argues that Judge Alsup's orders were "not adjudicative but ministerial," so Judge
21 Alsup did not have jurisdiction over the action. Id. At the core of his argument, Bruzzone
22 claims that he "is not an employee of the court or a report of Judge Alsup. Judge Alsup
23 has no official qualification to negate, fire, dismiss, replace, [or] suspend Bruzzone" as a
24 relator. Id. at 25. Bruzzone argues that Judge Alsup acted outside of his judicial function
25 and jurisdiction when he acted to "dismiss, negate, fire the relator" because only the
26 United States Attorney's office can decide whether Bruzzone can be a relator to an action
27 litigated by the United States. Id.; see also Dkt. 53 at 12, 20–25.

28 Although it is on the whole difficult to make sense of Bruzzone's filings, it appears

1 that his complaint may be based on a misunderstanding. Judge Alsup's orders
2 concerned the disputes that were before him as a judicial officer, and those orders
3 explained facts about the cases that were before the court. Bruzzone does not identify—
4 and the court cannot find—any action by Judge Alsup preventing the United States from
5 joining any action with Bruzzone if it chose to, or preventing Bruzzone from being a
6 “relator” at any point in the future. Rather, Judge Alsup was merely reporting the fact that
7 Bruzzone was not a “relator” in the particular cases that were before him.

8 To the extent Bruzzone seeks to be a “relator” in any future action, his recourse
9 might lie with the United States Attorney. To the extent Bruzzone seeks to overturn
10 Judge Alsup's prior orders because they are based on an incorrect recitation of facts,
11 misapply the law, or are otherwise erroneous, his recourse lies with an appeal to the
12 Ninth Circuit Court of Appeals. In either case, Judge Alsup is totally immune from
13 Bruzzone's allegations in this action.

14 **2. Collateral Estoppel**

15 Bruzzone filed a different complaint against Judge Alsup in this district on August
16 8, 2017. See Case No. 17-04558-JD, Dkt. 1. That case was pending concurrently with
17 the present action from at least July 12, 2018 until August 17, 2018, when judgment was
18 entered. Case No. 17-04558-JD, Dkts. 24–25, 32–33. Somehow, no party to this case
19 made the court aware of that action until August 20, 2018. See Dkt. 52 at 2 n.1. Local
20 Rule 3-13(a) requires each party to “promptly” file a notice of pendency of other action or
21 proceeding “whenever” it “knows or learns that an action filed or removed to this district
22 involves all or a material part of the same subject matter and all or substantially all of the
23 same parties as another action which is pending in any other federal or state court[.]”
24 Civ. L.R. 3-13(a). The government argues that Case No. 17-04558-JD is so similar to the
25 present action that the resolution of that case bars Bruzzone's claims against Judge
26 Alsup in this action, yet no party ever filed a notice of pendency of other action or
27 proceeding in this action. The parties' failures to abide by Local Rule 3-13 have caused
28 needless, avoidable duplication of the court's resources.

1 Collateral estoppel (or issue preclusion) “bars successive litigation of an issue of
2 fact or law actually litigated and resolved in a valid court determination essential to the
3 prior judgment, even if the issue recurs in the context of a different claim.” Taylor v.
4 Sturgell, 553 U.S. 880, 892 (2008) (internal quotation marks omitted). Issue preclusion is
5 analyzed under “a three-prong test, asking if (1) the issue necessarily decided at the
6 previous proceeding is identical to the one which is sought to be relitigated; (2) the first
7 proceeding ended with a final judgment on the merits; and (3) the party against whom
8 issue preclusion is asserted was a party or in privity with a party at the first proceeding.”
9 Garity v. APWU Nat'l Labor Org., 828 F.3d 848, 858 n.8 (9th Cir. 2016) (internal
10 quotation marks omitted).

11 First, plaintiff’s allegations against Judge Alsup in both cases are nearly identical.
12 In both actions, Bruzzone challenged orders Judge Alsup issued in his capacity as a
13 judge, including orders that described “Bruzzone as ‘not [a] relator’” for purposes of the
14 False Claims Act. See Case No. 17-04558-JD, Dkt. 1 at 5–7, 10–12. As in this action,
15 Bruzzone also challenged Judge Alsup’s August 2014 decision to declare plaintiff a
16 vexatious litigant. Id. at 7, 11–12.

17 Second, Case No. 17-04558-JD ended with a final proceeding on the merits.
18 District Judge James Donato dismissed the case with prejudice and entered judgment,
19 finding that “Bruzzone’s lawsuit is barred by judicial immunity because he challenges only
20 actions taken by a judge within the scope of his judicial service.” Case No. 17-04558-JD,
21 Dkt. 32. Bruzzone argues that the case was not finally decided because he did not
22 consent to magistrate judge jurisdiction and because a previous order issued by
23 Magistrate Judge Ryu was vacated. But Judge Donato is a district court judge, and he
24 dismissed the case with prejudice and entered judgment.

25 Third, the issues in Case No. 17-04558-JD were decided against Bruzzone, who is
26 the same party attempting to re-litigate identical issues in this action.

27 For the foregoing reasons, Bruzzone is collaterally estopped from bringing his
28 claims against Judge Alsup in this action, and those claims must be DISMISSED.

1 **B. Faulkner and McManis**

2 Federal Rule of Civil Procedure 12(b)(6) tests for the legal sufficiency of claims
3 alleged in a complaint. Ileto v. Glock, 349 F.3d 1191, 1199–1200 (9th Cir. 2003).
4 Federal Rule of Civil Procedure 8 requires that a complaint include a “short and plain
5 statement of the claim showing that the pleader is entitled to relief[.]” Fed. R. Civ. P.
6 8(a)(2). A complaint may be dismissed under Rule 12(b)(6) if the plaintiff fails to state a
7 cognizable legal theory or has not alleged sufficient facts to support a cognizable legal
8 theory. Somers v. Apple, Inc., 729 F.3d 953, 959 (9th Cir. 2013).

9 While the court must accept as true all the factual allegations in the complaint,
10 legally conclusory statements, not supported by actual factual allegations, need not be
11 accepted. Ashcroft v. Iqbal, 556 U.S. 662, 678–79 (2009). The complaint must proffer
12 sufficient facts to state a claim for relief that is plausible on its face. Bell Atlantic Corp. v.
13 Twombly, 550 U.S. 544, 555, 558–59 (2007). “A claim has facial plausibility when the
14 plaintiff pleads factual content that allows the court to draw the reasonable inference that
15 the defendant is liable for the misconduct alleged.” Iqbal, 556 U.S. at 678 (citation
16 omitted). “[W]here the well-pleaded facts do not permit the court to infer more than the
17 mere possibility of misconduct, the complaint has alleged—but it has not ‘show[n]’—‘that
18 the pleader is entitled to relief.’” Id. at 679. Where dismissal is warranted, it is generally
19 without prejudice, unless it is clear the complaint cannot be saved by any amendment.
20 Sparling v. Daou, 411 F.3d 1006, 1013 (9th Cir. 2005).

21 Faulkner and McManis argue that Bruzzone fails to state any claim, that any claim
22 Bruzzone does state is “insubstantial” so cannot support jurisdiction, and that Bruzzone’s
23 claims violate California’s anti-SLAPP statute.

24 As an initial matter, the court notes that the FAC is the single, operative complaint
25 in the action. It supersedes any previously-filed complaint. Lacey v. Maricopa Cty., 693
26 F.3d 896, 927–28 (9th Cir. 2012) (“an amended complaint supercedes the original
27 complaint and renders it without legal effect,” noting an exception “[f]or claims dismissed
28 with prejudice and without leave to amend”); see also 6 Charles Alan Wright & Arthur R.

1 Miller, Federal Practice and Procedure § 1476 ("A pleading that has been amended
2 under Rule 15(a) supersedes the pleading it modifies and remains in effect throughout
3 the action unless it subsequently is modified. Once an amended pleading is interposed,
4 the original pleading no longer performs any function in the case and any subsequent
5 motion made by an opposing party should be directed at the amended pleading."). Nor
6 may an amended complaint incorporate any part of a prior pleading by reference. Civ.
7 L.R. 10-1 ("Any party filing or moving to file an amended pleading must reproduce the
8 entire proposed pleading and may not incorporate any part of a prior pleading by
9 reference.").

10 The FAC contains a half-page of allegations solely against Intel Corporation.
11 Dkt. 18 at 2. Although the FAC purports to incorporate the allegations and claims pled in
12 the original complaint, amended pleadings are not permitted to incorporate prior
13 pleadings by reference. Civ. L.R. 10-1. As such, the complaint fails to state any claim
14 against Judge Alsup, Faulkner, or McManis, and those defendants must be DISMISSED
15 from this action. The next question for the court to address is whether plaintiff should be
16 granted leave to amend his complaint.

17 "Valid reasons for denying leave to amend include undue delay, bad faith,
18 prejudice, and futility." California Architectural Bldg. Prod. v. Franciscan Ceramics, 818
19 F.2d 1466, 1472 (9th Cir. 1988). The court considers Bruzzone's original complaint, the
20 FAC, various moving papers, oppositions, and numerous other filings¹ to assess whether
21 amendment of his complaint to state claims against Faulkner or McManis would be futile.
22 E.g., Dkts. 22, 25, 30, 38, 47. The court also notes that the original complaint in this
23 action is largely duplicative of the many complaints Bruzzone has filed against Intel and
24 various persons related to Intel, none of which has plausibly stated a claim for which
25 relief could be granted. E.g., Bruzzone v. Intel Corp., et al., Case No. 14-cv-01279-WHA

26
27 ¹ Bruzzone has filed several items in violation of the local rules. See, e.g., Dkts. 38, 48,
28 55, 57. Sur-replies or other "additional memoranda, papers or letters" may not be filed
"without prior Court approval," with limited exception. Civ. L.R. 7-3(d). Bruzzone is
admonished to review and comply with this district's local rules.

1 (N.D. Cal. Mar. 19, 2014); Bruzzone v. Alsup, Case No. 17-cv-04558-JD (N.D. Cal. Aug
2 8, 2017); Bruzzone v. Intel Corp. Legal Dept., et al., Case No. 16-mc-80126-JST (N.D.
3 Cal. June 13, 2016) (filed against Intel, Judge Alsup, and Judge Seeborg); Bruzzone v.
4 Intel Corp. Legal Dept., et al., Case No. 16-mc-80111-EMC (N.D. Cal. May 19, 2016)
5 (filed against Intel, Faulkner, McManis, and Judge Alsup); Bruzzone v. Intel Corp., et al.,
6 Case No. 13-cv-03729-WHA (N.D. Cal. Aug. 12, 2013); Bruzzone v. Intel Corp., Case
7 No. 11-cv-213829 (Santa Clara Sup. Ct. Nov. 29, 2011); Sealed Matters, Case Nos. 09-
8 cv-00679-WHA (N.D. Cal. Feb. 17, 2009), 08-cv-04169-WHA (N.D. Cal. Sept. 3, 2008);
9 Bruzzone v. Intel Corp., et al., Case No. 99-cv-779409 (Santa Clara Sup. Ct. Jan. 20,
10 1999). This time, rather than name Intel and its employees as defendants, Bruzzone has
11 asserted claims against Intel and its attorneys for what essentially amounts to the same
12 underlying conduct that formed the basis of Bruzzone's many previous suits. Intel has
13 already been dismissed from the action. Dkt. 20. What remains are allegations against
14 Intel's attorneys for actions they took on behalf of Intel.

15 The court finds that any attempt by Bruzzone to amend his complaint to state a
16 claim against Faulkner or McManis would be futile. Having reviewed plaintiff's filings, the
17 court concludes that he cannot state a potentially cognizable claim against Faulkner or
18 McManis.

19 To the extent Bruzzone's potential claims against Faulkner and McManis are
20 intelligible, they are implausible, and they are derivative of claims that have been
21 repeatedly dismissed for that reason. Moreover, to the extent Bruzzone seeks to assert
22 claims against Faulkner and McManis under California law based on court filings that
23 contained allegedly-defamatory statements about Bruzzone, such claims are frivolous
24 given California's anti-SLAPP law, California Code of Civil Procedure § 425.16.

25 **C. Bruzzone**

26 Federal courts have the inherent power to regulate the activities of abusive
27 litigants by imposing carefully tailored restrictions under appropriate circumstances. De
28 Long v. Hennessey, 912 F.2d 1144, 1147 (9th Cir. 1990). "When district courts seek to

1 impose pre-filing restrictions, they must: (1) give litigants notice and an opportunity to
2 oppose the order before it is entered; (2) compile an adequate record for appellate
3 review, including a listing of all the cases and motions that led the district court to
4 conclude that a vexatious litigant order was needed; (3) make substantive findings of
5 frivolousness or harassment; and (4) tailor the order narrowly so as to closely fit the
6 specific vice encountered.” Ringgold-Lockhart v. Cty. of Los Angeles, 761 F.3d 1057,
7 1062 (9th Cir. 2014) (internal quotation marks omitted).

8 In this action, the court considers whether to extend the already-existing pre-filing
9 review order governing Bruzzone’s filings against Intel, its current employees, its former
10 employees, and four other individuals to cover filings against Intel’s attorneys Faulkner
11 and McManis.

12 First, the litigants have had notice and an opportunity to oppose a pre-filing order.
13 Faulkner and McManis filed their motion to declare Bruzzone a vexatious litigant on April
14 3, 2018. Dkt. 17. Bruzzone opposed the motion on April 16, 2018 in a 50-page filing.
15 Dkt. 25. He filed another 69-page opposition (styled a “hearing presentation”) to the
16 motion on June 5, 2018. Dkt. 47.

17 Second, this order identifies all the cases and motions that led the district court to
18 conclude that a vexatious litigant order was needed. This order also incorporates the
19 factual record and reasoning contained in Judge Alsup’s earlier vexatious-litigant order,
20 which this order extends. Case No. 14-cv-01279-WHA, Dkt. 88.

21 Third, the court looks at the number and content of the filings as indicia of the
22 frivolousness of the litigant’s claims. Ringgold-Lockhart, 2014 WL 3805579, at *4. The
23 court finds that the number of claims Bruzzone has made is inordinate and that those
24 claims were without merit. In addition, the court finds that Bruzzone’s filings show a
25 pattern of harassment, both with respect to the named defendants and the court.
26 Bruzzone has evidenced an intent to harass Intel and its agents, as evidenced by the
27 repeated actions he has filed in state and federal court. All the actions have concerned
28 similar underlying allegations about Intel and its agents. Bruzzone has filed numerous

1 claims against Intel, a number of individuals with various relationships to Intel, and more
2 recently judges that have adjudicated some of those actions. Yet the court is not aware
3 of any of Bruzzone's claims that has survived the pleading stage.

4 Bruzzone also routinely files materials with the court that violate numerous local
5 rules. Plaintiff's filings are almost universally beyond their prescribed page limits and are
6 often entirely prohibited by the local rules. Additionally, plaintiff's complaints invariably
7 allege numerous claims haphazardly, making it exceedingly difficult for named
8 defendants and the court to identify the bases of Bruzzone's allegations. This order
9 extends the original pre-filing review order in finding that Bruzzone's claims are frivolous,
10 harassing, and brought with no objective good faith expectation of prevailing. His
11 approach is to repeatedly sue Intel, and more recently those with some relationship to his
12 prior suits against Intel, with unclear complaints referencing an exceedingly-large number
13 of statutes, sometimes in passing, which forces defendants to incur needless expense
14 defending themselves in court. This is a flagrant abuse of the judicial process and has
15 enabled Bruzzone to consume a considerable amount of time and resources from
16 everyone involved. Accordingly, this order makes a substantive finding of harassment.

17 Fourth, the pre-filing order must be narrowly tailored. The original pre-filing order
18 required Bruzzone to submit for pre-filing review any pro se complaint filed in this district
19 "against Intel Corporation, its current employees, its former employees, Evangelina
20 Almirantearena, Steve Lund, Harley Stock, and/or Andrew Grove." Case No. 14-cv-
21 01279-WHA, Dkt. 88. This action, to the extent the complaint is comprehensible, echoes
22 his previous attempts to sue Intel (and related entities and individuals). "This proposed
23 complaint, however, has been deliberately drawn to name as defendants only James
24 McManis and William Faulkner — attorneys who previously represented Intel — as well
25 as [Judge Alsup]," none of which "technically fall under the scope of the 2014 pre-filing
26 order." Case No. 18-mc-80005-WHA, Dkt. 9. "It seems that pre-filing order can no
27 longer keep pace with Bruzzone's tireless crusade of frivolous lawsuits." Id. Keeping in
28 mind the requirement of issuing a narrowly-tailored pre-filing review order, the court

1 expands the 2014 pre-filing order to include any of Bruzzone's future pro se claims
2 against James McManis, William Faulkner, McManis Faulkner, its current employees,
3 and its former employees.

4 **CONCLUSION**

5 For the foregoing reasons, Bruzzone's claims against Judge Alsup are
6 DISMISSED with prejudice. Because Judge Alsup is not a party to this action,
7 Bruzzone's motion for an order of service on Judge Alsup is DENIED as moot.
8 Bruzzone's claims against Faulkner and McManis are DISMISSED with prejudice.
9 Finally, Faulkner and McManis's motion to declare Bruzzone a vexatious litigant is
10 GRANTED as to litigation against James McManis, William Faulkner, McManis Faulkner,
11 its current employees, and its former employees. Plaintiff may not file any further pro se
12 complaints against James McManis, William Faulkner, McManis Faulkner, its current
13 employees, and/or its former employees, in addition to those previously named—Intel
14 Corporation, its current employees, its former employees, Evangelina Almirantearena,
15 Steve Lund, Harley Stock, and/or Andrew Grove—without obtaining prior leave from the
16 court. Any complaint filed by Bruzzone against any of those named parties or entities
17 shall be referred by the clerk to the general duty judge for pre-filing review.

18 **IT IS SO ORDERED.**

19 Dated: October 31, 2018

20 
21 PHYLLIS J. HAMILTON
22 United States District Judge

1 Michael A. Bruzzone
2 3766 Via Verdi, Richmond, CA 94803
3 Representing Self, Campmkting@aol.com
(415)250-4652

FILED

NOV 27 2018

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTH DISTRICT OF CALIFORNIA
OAKLAND OFFICE

4 In the UNITED STATES DISTRICT COURT
5 for the NORTHERN DISTRICT OF CALIFORNIA

6 Michael A. Bruzzone, 31 USC §§ 3729) Case No.: 18-cv-01235 PJH
7 3730(4)(A)(iii) Relator and attorneys)
8 Federal Trade Commission discovery)
9 aid supports FTC v Intel Corp. Dockets)
10 9288, 9341)
11 Plaintiff) 5th amendment denial of due process,
12 v.) hearing, confrontation, examination
13 Mr. James McManis and Mr. William) equal protection on taking
14 Faulkner associate attorneys for Intel)
15 Corporation; *in their individual*)
16 United States District Court Judge Mr.)
17 William Alsup *et publica*)
18)
19)
20)
21)
22)
23)
24)
25)
1)
) QUESTION OF DISTRICT COURT
) JUDGE JURISDICTION to SUSPEND
) TAKE, TRANSFER at U.S 5th DOES
) DISMISS 28 U.S.C. §§ 1346(a)(2)(B) QUI
) TARN RELATOR ORIGINAL SOURCE at
) 31 U.S.C. § 3730(4)(A)(iii) EXPLICIT
) CONTRACT COMMISSION by UNITED
) STATES ATTORNEY, DEPARTMENT of
) JUSTICE so ACKNOWLEDGED the
) ORGINAL SOURCE by COURT of
) APPEALS for FEDERAL CIRCUIT;
)
)
) "MICHAEL BRUZZONE RELATOR
) ORIGNAL SOURCE vs. INTEL
) CORPORATION and ARM Inc."
)
)
) DISTRICT COURT JUDGES ACT
) BEYOND JURISDICTION DISMISS
) THEFT RECOVERY from FEDERAL
) GOVERNMENT DENYING BRUZZONE
) 5THAMENDMENT DUE PROCESS by
) REFUSING TO CORRECT AT 18 USC
) §1001a(1)(2)(3) MATERIAL FALSITIES
) PLANTED IN CASE RECORD CAUSE
) BRUZZONE, FEDERAL GOVERNMENT,
) CONSUMERS TARGETED IN INTEL
) INSIDE® PC PRICE FIX THEFT
) FINANCIAL HARM.

NOTICE of APPEAL to NINTH CIRCUIT COURT of APPEAL

NOTICE OF APPEAL to NINTH CIRCUIT

Notice of Appeal is here given by Michael A. Bruzzone in case matter 4:18-cv-01235-PJH appeals to United States Ninth Circuit seeks judgment ORDERING Judge William Alsup to cleanse 3:14-cv-01279 case record of two material falsities at felony penal 18 U.S.C. § 1001a(1)(2)(3) disabling mechanics of just process at FRCP 60(d)(3).

RELIEF SOUGHT

Remand for adjudication or more simply the Ninth Circuit supporting judgment and ORDER in effect seek,

TWO Judge Alsup correcting statements by his own or Ninth Circuit ORDER;
1) Michael Bruzzone "is Intel Inside® relator", and 2) "United States Attorney has quit
turn oversight responsibility on § 3729 – 3333 Congress Act".

First, Bruzzone seeks Ninth Circuit ORDER Judge William Alsup cleanse 3:14-cv-01279-WHA case record of his material falsities contradictory to multiple federal proofs Judge Alsup is aware substantiating Bruzzone explicit 31 U.S.C. § 3729, 3730(4)(A)(iii) unilateral contract commission on U.S. Attorney designation "relator" pursuant *Kelly v Boeing*, 9 F.3d 743, 748 (9th Circuit 1993); *Vermont Agency of Natural Resource v United States ex rel, Stevens* 529 U.S. 765 (2000) 162 F.3d 1985; *Estate Mark Duxbury, Decreased, Sojourner T. Duxbury, Appellant, Chinyelu Duxbury, Respondent, Court of Appeals, Washington, Division 2, No. 42933-1-II*, June 19, 2013; FCA.

Second, Bruzzone seeks Ninth Circuit ruling Northern California District Court and Judges have 1) "no jurisdiction where qui tarn recoveries are valued in excess

NOTICE of APPEAL to NINTH CIRCUIT COURT of APPEAL

1 of \$10,000 at 28 U.S.C. § 1346(a)(2)(B)", and 2) Judge Alsup "acts beyond
2 jurisdiction" erroneously to misrepresent Bruzzone "not relator" whether to fire,
3 dismiss, punish, get rid of, abate, suspend, strip, take, transfer at United States 5th
4 amendment Bruzzone and his qui tarn contract commission.
5

6 Judge Alsup whether unnecessarily or deliberately creates question and
7 confusion that catalyzes Bruzzone group boycott across legal services markets at 15
8 U.S.C. § 1, 2 pursuant *Klors's Inc. v. Broadway-Hale Stores, Inc* 359 U.S. 207
9 (1959), *Pretz v Holstein Frisian Association of America*, 698 F.Supp.1531 (1988);
10 "calculated to prejudice the public [and] unreasonably restrain inter state commerce"
11 231 F.2d at 623.

12 From *Radovich v National Football League* at 352 U.S. 447; "Petitioner
13 Radovich, an all pro guard formerly with the Detroit Lions . . . contends violation of
14 §§ 1 and 2 of the Sherman Act; that part of the conspiracy was to destroy the All-
15 American Conference . . . and that, pursuant to agreement respondents boycotted
16 Radovich and prevented him from becoming a player-coach".
17

18 Judge Alsup has no judicial authority over Bruzzone "player-coach"
19 designation "relator" ex post facto United States Attorney designating Bruzzone
20 "relator original source". Bruzzone is lead federal advocate for United States and 82
21 individual Intel Inside® plaintiff actions seeking Intel Inside® price fix recovery.
22

23 United States Attorney commissions on December 10, 2008, Bruzzone
24 unilaterally to steward through recovery Intel Corp. Intel Inside® procurement price
25 fix overcharge cost to federal government in Intel Corp. boxed processor's and

3

NOTICE of APPEAL to NINTH CIRCUIT COURT of APPEAL

1 dealer's Intel Inside® branded computer purchase price; on average \$10.19 price fix
2 each processor in box, computer chassis, notebook case.

3 **BACKGROUND**

4 April 10, 2018 Chief Judge Hamilton denies adjudication at 5th amendment
5 and denies Bruzzone confrontation with Judge William Alsup to determine why "not
6 relator" stating absolute judicial immunity from civil suit.
7

8 Bruzzone is commissioned by U.S. Attorney Mr. Joseph Russuniello on
9 December 10, 2008 to steward through federal recovery Intel Corporation's Intel
10 Inside® boxed processor and processor in computer case 'direct end buyer'
11 procurement price fix overcharge.

12 As FTC Docket 9288 and 9341 discovery aid on industry witness status; FBI
13 original source in 1996; FTC original source May 1998, Bruzzone is an enlisted
14 federal attorney's discovery aid responsible in FTC v Intel Corp. Docket 9341 for
15 production economic analysis and does estimate United States Intel Inside® federal
16 price fix overcharge at \$1,723,731,420.
17

18 In 2014 Bruzzone floats a \$350,000,000 settlement sum attention Intel
19 Corporation, the United States Attorney and for Congress consideration all are
20 aware.

21 Intel Inside® processor price fix overcharge is 15 U.S.C. § 1 discriminatory
22 route fee charge for cartel registered metering of processor flows in Intel Corp dealer
23 channels cost directly to end buyers including the federal government. Are
24 determined "avoidable cost charge" that is an extra economic "nonsense cost"
25 specific Federal Trade Commission v Intel Corp. 15 U.S.C. § 5 Docket 9341

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NOTICE of APPEAL to NINTH CIRCUIT COURT of APPEAL

1 investigation and EUCC v Intel Corp 37.990 decision May 13, 2009 affirmed
2 judgment July 12, 2014. Intel Inside® price fix is confirmed on contract, systems,
3 economic analysis, domestic case law and INTC 10K false line item certification.

4 Beginning May 21, 2014 Judge William Alsup through a succession of related
5 3:14-cv-01279 ORDERS now having disseminated throughout the public domain,
6 the legal service market and news record, attempts to fire, dismiss, abate, suspend,
7 strip, take, transfer, cause Bruzzone group boycott in legal services market parallel
8 Bruzzone seeking qui tarn attorney representation while Judge Alsup denounces
9 Bruzzone as the federal qui tarn contract commission holder stating in the multiple
10 ORDERS 1) "not relator" and 2) "the United States is no way involved in the [qui
11 tarn] action".

12 No attorney will represent the un-relator.

13 Both Judge Alsup claims are false and his concert scheme misrepresents
14 material fact of Bruzzone explicit contract commission, and bounty, on contract
15 reward pursuant Congressional statute assessment §§ 3729, 3730(4)(A)(iii) and
16 FTC Docket 9288 and 9341 Bruzzone and EUCC 37.990 discovery.

17 Bruzzone has for two decades served in enlisted voluntary federal service
18 including as Article III § 3730(4)(A)(iii) federal consumer advocate told by federal
19 attorneys including Mr. Thomas Greene then in 1999 at California Department of
20 Justice and now U.S. Department of Justice Antitrust Division to document Intel
21 Inside® 15 U.S.C. § 1 violation and consumer price fix recovery sum today totals
22 \$40,365,500,000. Noteworthy, \$19,665,500,000 remains recoverable on ten year
23 criminal RICO statute where Intel Corp. concert concealment is established in FTC
24
25

5

NOTICE of APPEAL to NINTH CIRCUIT COURT of APPEAL

1 Docket 9314 and EUCC 37.990. On four year civil RICO \$6,800,000,000 is
2 recoverable.

3 In 2010 as Docket 9341 attorney's discovery aid Bruzzone confers twice with
4 Mr. Robbie Robertson Chief litigator and during preparation for hearing Bruzzone
5 agrees to continue his pursuit of Intel Inside® price fix recovery.

6 Bruzzone has floated for Intel Corp. consideration State Attorney Generals
7 NAAG antitrust committee the \$4,088,649,333 Intel Inside® four year civil RICO
8 settlement sum returning this token to States Citizens. Judge William Alsup on
9 misrepresentation interferes in both Intel Inside® price fix recoveries; federal and
10 States consumer includes 82 individual actions whom Bruzzone is 42 U.S.C. §
11 1981(a)(b) lawful federal advocate verse Intel Corp. lawless infringing opposition
12 network.

13 2014 through 2018 at 18 U.S.C. §§ 2, 3, 4, 371, 1001, 1341 Bruzzone
14 viewing and fearing opposition network's plan of deliberate confusion, contract
15 taking, scaring prospect attorneys away on Judge William Alsup material falsities.
16 Bruzzone files minimally 7 motions for readdress seeking Judge Alsup correct his
17 material false statements pursuant FRCP 59(e) and U.S. 5th specific his own 18
18 U.S.C. § 1001a(1)(2)(3) fraudulent statements misrepresenting material facts
19 incorporated into minimally seven (7) ORDERS in which Judge William Alsup falsely
20 portrays Bruzzone "not relator"; USDC 3:14-cv-01279 WHA Document 51 filed May
21 21, 2014, Document 58 filed June 17, 2014, Document 88 filed August 19, 2014,
22 Document 94 filed September 2, 2014, No Document # filed September 21, 2015,
23 Doc. 107 filed October 13, 2015, Doc. 114 filed November 30, 2015.

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NOTICE of APPEAL to NINTH CIRCUIT COURT of APPEAL

1 On all Bruzzone motions for reconsideration Judge William Alsup refuse's to
2 state declaratory corrections that 1) Bruzzone "is relator", and 2) "United States
3 Attorneys has oversight responsibilities on statute".

4 Instead Judge Alsup slanders Bruzzone in the court record "not relator"
5 "vexatious" and "frivolous" there after propagates that libel in the public and legal
6 news record.

7 Through 2017 and 2018 including pursuant this action 4:18-cv-01235-PJH,
8 Judges of Northern District refuse to intervene to ORDER Judge William Alsup make
9 the **TWO** corrections Bruzzone seeks having named Judge Alsup in 01235 seeking
10 declaratory corrections; 1) "is relator", and 2) "United States Attorneys has oversight
11 on statute".

12 In avoidance District Court Judges state Doctrine of Judicial Immunity, negate
13 qualified immunity, **gets to the primary appeal question** is Judge William Alsup
14 acting "beyond his jurisdiction"?

15 And are other Judges clubby with Judge Alsup?

16 Bruzzone claims and believes Ninth Circuit will verify Judge Alsup is acting
17 beyond jurisdiction ex post facto Bruzzone contract award that Judge Alsup attempts
18 to take from Bruzzone libeling "not relator" on a felony penal 18 U.S.C. § 1001a
19 (1)(2)(3) judges schema planting material falsities into case records parallel Mr.
20 James McManis and Mr. William Faulkner attorneys FRCP 60(b)(3) fraud at CPC §§
21 132, 134 also planting "vexatious falsities" into the case record that are not a subject
22 of this appeal.

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NOTICE of APPEAL to NINTH CIRCUIT COURT of APPEAL

1 According to Chief Judge Phyllis Hamilton at 01235 dismissal Document 58,
2 page 4 line 15 "a judge will not be deprived immunity because the action he took
3 was in error, was done maliciously, or was in excess of his authority; rather, he will
4 be subject to liability only when acting in clear absence of all jurisdiction," *O'Neil*,
5 642 F.2d at 369 (quoting *Stump*, 435 U.S. at 360–64)
6

7 Bruzzone claims Judge Alsup acts beyond District Court jurisdiction ex post
8 facto Bruzzone "relator" designation including on bounty value at 28 U.S.C. §§ 1346
9 (a)(2)(B), 1491(a)(2), Contract Dispute Act of 1978 §§ 8(g)(1), 10(a)(1) tampering
10 with Bruzzone 31 U.S.C §§ 3729, 3730(4)(A)(iii) U.S. Attorney designation.

11 District Court Judge William Alsup has no jurisdiction to claim Bruzzone "not
12 relator" causing all kinds of confusion including immunizing defendant Intel
13 Corporation from theft; must correct 3:14-01279-WHA record having ventured into
14 Federal Court of Claims jurisdiction pursuant *Simanonok v Simanonok*, 918 F.2d
15 947, 950–951 (Fed Cir. 1990); *Emery W.W. Airlines, Inc., v United States*, 264 F.3d
16 1071, 1978–1079 (Fed. Cir. 2001); *United States v Reality Company*, 163 U.S. 427
17 (1896) "entitled to said Bounty".
18

19 Paraphrasing President Lincoln where "it is as much the duty of Government
20 to render prompt justice against itself in favor of citizens, as it is to administer same
21 between private individuals"; Congressional Globe, December 3, 1861, 37th
22 Congress, 2d Sess. App at 2 See LESTER and NOONE, *supra* note 5 at § 6,104
23 because "[p]olitically by honoring its contracts, government has reinforced its
24 democratic legitimacy as a government subject to rule of contract," See Gillian
25

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NOTICE of APPEAL to NINTH CIRCUIT COURT of APPEAL

1 Hadfield, *Of Sovereignty and Contract: Damages for Breech of Contract by*
2 *Government*, 8 S Cal. Interdisc, L.J. 467–467 (1999).

3 This appeal is not a Tucker Act Claim and Bruzzone does not wave qui tam
4 recovery reward rights in excess of \$10,000.

5 I Michael Alan Bruzzone declare under penalties of perjury my following
6 statements are true to the best of knowledge and made in good faith.

7 Date November 27, 2018

8
9 Filed with Clerk of the Court, Northern California District

10
11
12 Michael Bruzzone, in pro se representing Self and lawful Intel
13 Inside Plaintiff's at 42 U.S.C. § 1981(a)(b), U.S. 5th Amendment

14 FBI Original Source of Intel Network RICO in 1996
15 FTC Invited Field Report Docket 9288; 1998 – 2000
16 CDOJ and NYDOJ First to Report Intel Section 1 Violation in 1998
17 CDOJ Lettered to Work Report, Intel 15 USC 1 Violation in 2000
18 SEC Notice INTC Stock Market Rig, Accounts Fraud; 2007 – 2018
19 U.S. Attorney Northern District FCA Relator; 2008 and current
20 FTC Witness Analyst v Intel Corp. Docket 9341; 2009 and current
21 Court of Appeal Federal Circuit acknowledge 31 USC 3729 Relator, 2014

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NOTICE of APPEAL to NINTH CIRCUIT COURT of APPEAL

CERTIFICATE OF SERVICE

STATE OF CALIFRONIA, Contra Costa County, I am a citizen of the United States. I declare that I am over the age of 18 Years and I am not a party to this Petition for Writ of Certiorari filed for consideration with and by the United States Supreme Court; Plaintiff Petitioner Michael Bruzzone and Defendant Respondents Messrs. James McManis and William Faulkner attorney associates of Intel Corp., and District Court Judge Mr. William Alsup in individual and official. My address is 5941 McBryde Avenue, Richmond, CA 94805. On the date stated below I caused the following documents to be served onto parties in this action.

**All parties; Bruzzone Petition Write of Certiorari to the United States Supreme Court
USSC only; Petitioner Motion with Declaration to Proceed in *Forma Pauperis***

Service is accomplished by United States Post;

- 1) Clerk of the United States Supreme Court, 1 First Street, N.E. Washington, D.C. 20543
- 2) Solicitor General of the United States, Mr. Noel Francisco, U.S. Department of Justice, Room 5616, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530-0001
- 3) Ms. Janet Everson and Ms. Suzie Tagliere, Murphy, Pearson, Bradley, Feeney, 88 Kearny Street, 10th Floor, San Francisco, CA 94108; representing James McManis and William Faulkner; associate attorneys for Intel Corporation.
- 4) Assistant United States Attorney Mr. James Scharf at Civil Division, 150 Almaden Blvd., Suite 900, San Jose in Silicon Valley, California 95113 representing Judge and Mr. William Alsup

I declare under penalty of perjury
the foregoing is true and correct

May 4, 2020
Executed at Richmond, California

Joann Eichmann

Joann Eichmann