No. 19-359

IN THE SUPREME COURT OF THE UNITED STATES

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

_____◆_____

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

_____◆_____

VOLUME 2
APPENDIX TO EMERGENCY APPLICATION FOR STAY AND INJUNCTION PENDING DISPOSITION OF PETITION FOR WRIT OF MANDAMUS; PENDING FILING AND DISPOSITION OF RELATED PETITIONS FOR WRIT OF CERTIORARI; AND FOR ISSUANCE OF A CERTIFICATE OF NECESSITY BY THE CIRCUIT JUSTICE

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

NINA RINGGOLD, ESQ. as named Trustee of the Aubry Family Trust and named Executor under the will of Robert Aubry on behalf of the trust and estate and all similarly situated entities and/or persons; JUSTIN RINGGOLD-LOCKHART on his own behalf and all similarly situated persons; THE LAW OFFICES OF NINA RINGGOLD AND ALL CURRENT CLIENTS THEREOF on their own behalves and all similarly situated persons,

Plaintiffs,

v.

JERRY BROWN in his Individual and Official Capacity as Governor of the State of California and in his Individual and Official Capacity as Former Attorney General of the State of California; KAMALA HARRIS in her Individual and Official Capacity as Current Attorney General of the State of California, COMMISSION ON JUDICIAL PERFORMANCE OF THE STATE OF CALIFORNIA as a state agency and constitutional entity, ELAINE HOWLE in her Individual and Official Capacity as California State Auditor and DOES 1-10.

Defendants.

Case No.: 2:12-CV-00717-JAM-JFM

PLAINTIFFS' EX PARTE APPLICATION (1) FOR STAY PENDING DISPOSITION OF PETITION FOR WRIT OF CERTIORARI OR OTHER REVIEW; (2) FOR RECONSIDERATION AND/OR TO VACATE, OR FOR OTHER RELIEF (INCLUDING LEAVE TO AMEND); ALTERNATIVELY, FOR (4) FOR STAY AND CERTIFICATION UNDER RULE 54 (b) AND/OR 28 U.S.C. § 1292

Date of Submission: January 31, 2013
Judge: The Hon. John A. Mendez
Courtroom: 6

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that plaintiffs submit this ex parte application to the Honorable John A. Mendez requesting the relief specified in the proposed order concurrently filed herewith. The orders are necessary and relate to plaintiffs' federal claims for declaratory, injunctive, and equitable relief (28 U.S.C. § 2201-2202); Violation of the Public Trust Doctrine; the Voting Rights Act of 1965 (as amended)(42 U.S.C § 1973); Title II of ADA (42 U.S.C. §§ 12131, 12132); 504 of the Rehabilitation Act; Title 42 U.S.C. § 1981, 1982, 1983, 1985, 1986; and related supplemental state law claims including but not limited under the Political Reform Act, and the California Whistleblower Protection Act (Cal. Govt Code § 8547 et seq.). Defendants were provided notice of this ex parte application on January 24, 25 and 30, 2013. (Decl. of Ringgold).

Based on the urgency plaintiffs file this ex parte application renewing their request for a temporary stay or restraining order and/or for injunctive relief as specified herein because the court's order causes continuing irreparable harm *pendente lite.* Thus plaintiffs provide notice and this ex parte application and they must also seek review in order to preserve their legal interests. Respectfully, plaintiffs request that this court, at minimum, grant the immediate stay to maintain the status quo between the parties.

On January 15, 2013 plaintiff client ASAP Copy and Print and Ali Tazhibi submitted a petition for writ of certiorari in the United States Supreme Court. (Ex 1, *ASAP Copy and Print et al v. Canon Business Solutions et al*). On January 16, 2013 ASAP Copy and Print and Ali Tazhibi and the remaining plaintiffs in this action (who are *each* and *all* clients of the Law Office of Nina Ringgold) also submitted a petition for writ of certiorari in the United States Supreme Court. (Ex 2, *Ringgold et al v. Brown et al*). Both petitions were submitted prior to this court's January 23, 2013 ruling and judgment (which does not dispose of all parties or claims). (Ex 3).

The January 23, 2013 order was entered after the petition for writ of certiorari was docketed in this case. The order indicates, that as to a segment of the plaintiff clients of the law office, that an administrative order of a single judge in a different district can act as a prior

restraint and prefiling injunction as to those clients. It also specifies that this administrative order formulates the federal subject matter jurisdiction in all district courts of the United States as to all plaintiffs. Or, stated differently, that federal subject matter jurisdiction could be found to be lacking if the plaintiff clients of the law office are associated with a particular law office. Plaintiffs do not believe this the proper statement or application of the law. The December 6, 2011 administrative order does not bar any action of person or entities represented by counsel, and all client plaintiffs are not involved in the administrative order, and this order does not define federal subject matter jurisdiction of the district courts. The court's determination impacts valid legal claims under the United States Constitution and federal law and disregards and continues the continuing irreparable harm and impairment of the legal interests of all plaintiffs who are all clients of the law office without an evidentiary hearing.

Plaintiffs object to the use of the administrative order of a single judge of a different district court being interpreted as limiting the federal subject matter jurisdiction as defined by Article III § 2 or the Congressional enabling statutes of 28 U.S.C. § 1330-1369 and 28 U.S.C. § 1441-1452 or as limiting the causes of action specified in the complaint including the causes of action for declaratory and injunctive relief under 28 U.S.C. § 2201-2202 or the Voting Rights Act of 1965 as amended (42 U.S.C. § 1973) in all district courts in the United States or in a manner which adversely impacts their associational interests protected under the First Amendment.

An example of the prejudice is amplified by the case of ASAP Copy and Print. ASAP and its owner (Ali Tazhibi) have never been determined to be vexatious litigants and have nothing to do with the December 6, 2011 administrative order. They are proceeding by petition for writ of certiorari from state court proceedings due to the inability to obtain ruling in this case on the merits of the motion for injunctive relief filed by all client plaintiffs of the law office . The motion for preliminary injunction details the need of all clients including client plaintiff ASAP Copy and

Print and its owner. (See Dkt 36 p. 17-22). The causes of action of the first amended complaint ("FAC") directly relate to these clients.[1]

Defendants Brown and Harris were aware that plaintiff clients ASAP and Ali Tazhibi were not subject to the December 6, 2011 administrative order or a prior restraint and pre-filing condition. These state officers were previously were provided with a declaration of ASAP Copy and Print and its owner and this declaration is again updated. (Ex 5). The FAC alleges that a pre-filing condition was erroneously imposed in the state court as to clients of the Law Office as a form of retaliation, blacklisting, and viewpoint discrimination. (See FAC ¶ 52-53, 56). Documents completely dispositive to ASAP Copy and Print's case could not be used in contested proceedings, thereby concealing evidence relating to ASAP's case and the case of another immigrant merchant operating ABC Copy and Print (and its owner Jamshid Aryeh). The case of *Jamshid Aryeh v. Canon Business Solutions* has class based allegations. (See Ex1 petition for writ of certiorari p. 4-5, Ex 4, January 24, 2013 decision of the California Supreme Court in *Jamshid Aryeh v. Canon Business Solutions*).[2]

As to the client plaintiffs who are citizens of a different state and who are being sued in the State of California or bringing an action in the State of California, the uncodified provision of the state statute challenged as unconstitutional, section 5 of Senate Bill x 211 ("SBX2 11"), as well as the motions of state officers, act as a proceedings by the State against citizens of another State. The uncodified statutory provision mandates that there is a waiver of rights guaranteed under the United States Constitution and federal law. Thus, there is original jurisdiction in the Supreme Court under 28 U.S.C. § 1251. The January 23, 2013 order, whether with or without prejudice,

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[1] i.e. See FAC ¶ 7, 8, 13-41, 45, 47-49, 52-54, 55-188, prayer at p. 66-69.

[2] Ali Tazhibi and ASAP Copy and Print and Jamshid Aryeh and ABC Copy and Print are entirely unrelated companies, their owners are unrelated, and their attorneys are unrelated. The California Attorney General participated in this case as amicus curiae on behalf of the plaintiff. (Ex 4 p. 21).

allows the state to advance proceedings against a citizen of another state in order to effectuate a waiver of rights under federal law and adversely impacts associational interests in violation of the First Amendment. See Perry v. Schwarzenegger, 591 F.3d 1147, 1154, 1159 (9th Cir. 2010)("effective advocacy of both public and private points of view, particularly controversial ones, in undeniably enhanced by group association"), NAACP v. Alabama, 357 U.S. 449, 460 (1958), NAACP v. Button, 371 U.S. 415 (1963), NAACP v. Patterson, 357 U.S. 449 (1958), Moss v. U.S. Secret Service, 675 F.3d 1213 (9th Cir. 2012) (viewpoint discrimination).

The January 23, 2013 order at page 3 refers to the third cause of action concerning the Voting Rights Act of 1965, 28 U.S.C. § 2201-2202, the Fourteenth and Fifteenth Amendment seeking a declaration of constitutional vacancy of office and special judicial election in local districts as an "existential challenge". The effort to enforce the Voting Rights Act is not "existential" and has not been raised in any prior proceeding by any plaintiff. The mandatory constitutional requirement of disclosure and of written consent, claim of vacancy of judicial office by constitutional resignation, and effort to gain compliance with the Voting Rights Act of 1965 to implement a special judicial election in the municipal districts prior to state trial cout unification in order to restore diversity in the judiciary and the right of the electorate in the State of California is not "existential". The decision of the United States Court of Appeals for the District of Columbia Circuit, *Noel Canning v. National Labor Relations Board,* No. 12-1115 (D.D. C. January 25, 2013) amplifies this point. Two days after this court's order and partial judgment by an unanimous decision in *Noel Canning* held that appointments to NLRB by the President of the United States were invalid under the Recess Appointment Clause of the Constitution, Article III, Section 2, Cause 3. It vacated the order of the Board based on unconstitutional appointments creating a vacancy of office.

By this application, plaintiffs seek the following relief:

1. That pending disposition of the petitions for writ of certiorari in the United States Supreme Court, *Ringgold et al v. Brown et al* and *ASAP Copy and Print dba Ali Tazhibi v. Canon*

Business Solutions Inc. et al. that this court stay the January 23, 2013 order and partial judgment and that this court stay the underlying actions in order to maintain the status quo between the parties and prevent continuing irreparable harm to plaintiffs.

2. That this court grant plaintiffs' request to reconsider, vacate, and stay its order and partial judgment on defendants' motion to dismiss a subset of the client plaintiffs of the law offices of Nina Ringgold and as to defendants' motion for sanctions.[3]

3. That this court enter a ruling on plaintiffs' motion for sanctions.

4. That without waiver by plaintiff law office clients' position that there is no pre-filing requirement for any client of the law office or any plaintiff party represented by counsel, that a copy of the first amended complaint shall be referred to Chief Judge Chief Judge Morrison C. England to determine if a pre-filing requirement has been is satisfied or needed in this district court and that plaintiffs be provided with the procedure and standard applied in this district court.

5. That the order granting leave to amend shall include all plaintiffs in this action as a group, namely all clients of the law office.

6. That the court identify the procedure for ruling on plaintiffs' motion for preliminary injunction and their motion for the appointment of special counsel to act as public trustee. (See Dkt Nos. 32, 36 (errata), 38 (proposed order), 45-48 (request for judicial notice as to mtn for preliminary injunction), 59-60 (reply)).[4]

Alternatively, if this court denies the request to reconsider and to vacate and leave to amend by all client plaintiffs of the law office that this court provide the following relief:

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[3] The court's order was made without an evidentiary hearing, a determination of the conflict of interest and need for special counsel to act as a public trustee, or a determination of an ability to pay. Additionally, the court's order is without consideration of the substantial First Amendment interests including the associational interests of all client plaintiffs of the law office and structurally revises the concept of federal subject matter jurisdiction. It is also does not consider the fact that the court's interpretation of subject matter jurisdiction is intertwined and inseparable from substantive factual issues as to all plaintiffs so that an evidentiary hearing was required.

[4] Page 2 of the January 23, 2013 order does not accurately identify the docket entries pertaining to plaintiffs' motion for injunction. (See Dkt 65 p. 2).

1. That pending disposition of the petitions for writ of certiorari in the United States Supreme Court, *Ringgold et al v. Brown et al* and *ASAP Copy and Print dba Ali Tazhibi v. Canon Business Solutions Inc. et al.* that this court stay the January 23, 2013 order and partial judgment and that its court stay the underlying actions in order to maintain the status quo between the parties and prevent continuing irreparable harm to plaintiffs.

2. That this court certified its order and partial judgment under Rule 54 (b) and/or 28 U.S.C. § 1292.

3. That this court stay the sanction order pursuant to Rule 62 pending review and remove plaintiff client Justin Ringgold-Lockhart from the sanction order. Additionally, plaintiffs request that this court consider a non-monetary sanction or alternative based on the inability to pay.

4. That this court enter a ruling on plaintiffs' motion for sanctions.

5. That the court identify the procedure for ruling on plaintiffs' motion for preliminary injunction and motion for the appointment of special counsel to act as public trustee.

This ex parte application is based on this application, memorandum of points and authorities, declaration of Nina Ringgold (with Exhibits 1-11 and Exhibit 5 includes the declaration of ASAP Copy and Print/Ali Tazhibi), and the concurrently filed proposed order. This application is also based on the Federal Rules of Civil Procedure, local rules, and Procedures, and relevant applicable law.

Dated: January 30, 2013

Respectfully submitted,
LAW OFFICE OF NINA RINGGOLD
By: s/ Nina R. Ringgold, Esq.
Nina Ringgold, Esq.
Attorney for the Plaintiffs

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I. STATEMENT OF FACTS

All plaintiffs are all clients of the Law Office of Nina Ringgold ("Law Office"). They request that this court stay these proceedings and the underlying actions pending determination of the petitions for writ of certiorari set forth in the application. The January 23, 2013 judgment executed by the clerk is in error and should be vacated. It can only be construed as a partial judgment. It improperly indicates that a trial or hearing had taken place and it does not dispose of all claims or all parties.

The order and partial judgment is based on the foundation that this action is an effort circumvent a December 6, 2011 administrative order. As discussed herein this order is not applicable in this district or to any plaintiff because they are all represented by counsel. As discussed herein this is based on the order itself, the legal standard set forth by the Ninth Circuit, and the required interpretation which does not impair the substantive rights of all plaintiffs clients of the Law Office. As shown by both the order and trust instrument, the January 23, 2013 order is incorrect in the indication that plaintiff Ringgold was removed as trustee. (See Ex 7-8).

In addition to this action being filed in the proper district, as shown by the petition for writ of certiorari submitted by plaintiff client ASAP, this action is not an attempt to circumvent an administrative order. All plaintiff clients, with the exception of one, have active and pending cases in the County of Los Angeles and they have diligently sought injunctive relief in this action.[5] As to the one plaintiff client whose case is not active he filed a timely government claim. All plaintiffs assert in this action that litigants in proceeding in the County of Los Angeles must have

[5] i..e. to name a few, Nathalee Evans (named executor and trustee) (case involving trust and estate is being liquidated without mandatory statutory bond); Nazie Azam (case involving effort to reach remedy under federal consent decree and judgment to avoid losing her home); Cornelius Turner (case involving elder sued in personal injury case and his claims in related discrimination and bad faith insurance litigation); Karim Shabazz (case involving employment discrimination claims (based on race and disability and other claims)); ASAP Copy and Print and Ali Tazhibi (case involving unfair business practices claims).

disclosure that their case is being heard by a judge subject to mandatory constitutional resignation and provide their written consent and they are refusing to provide their consent. They are seeking a special election in the local districts which existed which before an unconstitutional condition arose and section 5 of SBX2 11 was enacted. They claim that based on their views and association with the Law Office after it filed a verified constitutional claim in the probate department (not knowing it conflicted with a position of a special tasks force created by the California Judicial Council) that they have been subjected to extraordinary blacklisting, retaliation, viewpoint discrimination in violation of the First Amendment.

The January 23, 2013 ruling states that "this matter arises from Plaintiff's (singular) dissatisfaction with "administration of the state courts of California and with several orders related to a revocable trust issued by the California Probate Code." (Dkt 65 p. 2). The FAC complaint does not just deal with several orders of the probate court orders arising from the Aubry Family Trust, but rather all client plaintiffs of the Law Office.

The decision indicates that Ringgold and Lockhart were "declared vexatious litigants pursuant to California Code of Civil Procedure § 391, et seq., by California trial and appellate courts." (Dkt 65 p. 3). This is not accurate because there never was a motion filed in the trial court. The constitutional challenge, in part deals with the fact that plaintiff clients of the law office are being deemed vexatious when there was never a motion filed in the trial court as statutorily mandated. This procedure this does not afford a right of appeal. All plaintiff clients claim that this targeted application of the statute is a form of viewpoint discrimination. (i.e. for seeking a declaration of constitutional vacancy of office and special judicial election or due to their association with the law office). Plaintiff client Lockhart, like ASAP and Ali Tazhibi have never filed any case in propria persona. (See Ex 1, 9-11).

The decision grants defendants' motion to dismiss all plaintiff clients of the Law Offices' claims and does not reach the urgent relief sought by the motion for preliminary injunction and request for appointment of special counsel to act as a public trustee.

II. LEGAL ARGUMENT

A. Standard Of Review

Plaintiffs seek relief under Rule 60 (b) on the following grounds: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party; (4) the judgment is void; and (6) any other reason that justifies relief.

As to motions for reconsideration this court has inherent power to reconsider and modify its interlocutory orders. *Smith v. Massachusetts*, 543 U.S. 462, 475 (2005). The judgment is not a final judgment under Rule 58 and Rule 79 (a). Plaintiffs also seek reconsideration and relief under Rule 60 (b) based on a change in the controlling law evidenced by *Noel Canning v. National Labor Relations Board*. See *Phelps v. Alameida*, 569 F.3d 1120, 1124 (9th Cir. 2009). As to their motion to vacate for new trial, to amend, or alter the judgment, plaintiffs have timely filed this motion within 28 days of the order or judgment. (Rule 59). Likewise a motion to amend or make additional findings may be filed within 28 days of the judgment. (Rule 52).

B. Plaintiffs Request A Stay Pending Review In United States Supreme Court

1. This Court Should Stay Its January 23, 2013 Order and Partial Judgment And Stay The Underlying Proceedings Pending Disposition Of The Petitions Of Writ Of Certiorari In The United States Supreme Court

Plaintiffs request that this court stay its January 23, 2013 order and partial judgment which does not reach the merits of the case or the motion for preliminary injunction.[6] Plaintiffs believe that the January 23, 2013 ruling does not identify a basis for lack of federal subject matter jurisdiction. If this were the case, the court would be required to dismiss the entire action and deny leave to amend as to all plaintiffs. This case is filed in the proper district, and the January 23,

[6] See Dkt 65 p. 12, lines13-15 "The merits of Plaintiffs' claims were never reached due to the Court's lack of subject matter jurisdiction…", Dkt 65 p. 12, lines 22-24 "…the Court has not reached the underlying merits of this litigation", Dkt 65 p.

2013 order necessarily applies a prior restraint and pre-filing junction, to *all clients of the law office* and members of the prospective class, because plaintiffs Ringgold and Lockhart filed the representative government claim. These are the factors to consider:

First, all plaintiff clients of the Law Office, including plaintiff client Ringgold in the capacity as named trustee of the Aubry Family Trust and Executor under the will of Robert Aubry and plaintiff client Justin Ringgold-Lockhart, are able to proceed with the action with all current clients thereof, and all persons similarly situated, because (1) the December 6, 2011 order does not apply to Ringgold in her capacity as an attorney[7], (2) CCP § 391.7 does not apply to persons represented by an attorney, and (3) that defendants Brown and Harris made a formal admission[8] and it is true that in the State of California trustees and executors must appear in legal proceedings through representation by an attorney, and (4) that defendant Brown and Harris declined to participate in the pending appeal which is challenging the December 6, 2011 administrative order. Therefore, the tactical use of the order in these proceedings has to do with a threshold issue, not addressed by this court -- the existing unwaivable conflict of interest of Brown and Harris and the need for the appointment of special counsel to act as a public trustee.[9]

Second, no cause of action is addressed in the January 23, 2013 ruling. All clients of the Law Office are not given adequate information on the basis of the ruling that there is a lack of

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[7] The order states: "[p]laintiff Nina Ringgold is subject to the order in her capacity as an individual, not as an attorney. This distinction is made in order to comply with the holding of *Weissman v. Quail Lodge Inc.*, 197 F.3d 1194 (9th Cir. 1999)" (Brown, Harris JN # 2)

[8] See Plaintiffs JN No. 13, ¶ 28 Answer of Brown and Harris in USDC No. 11-01725 (Admission that trustee must appear in legal proceedings through an attorney in the State of California). *Ziegler v. Nickel*, 64 Cal.App.4th 545 (Cal. 1998).

[9] Again, counsel emphasizes that this is not intended as a personal attack but rather a structural defect in the proceedings. This includes the manner in which the court has made its ruling because it further deprives all clients of the Law Office from a ruling on their first motion concerning injunctive relief.

federal subject matter jurisdiction. There is nothing in the ruling which indicates the FAC is not within the constitutional bounds of a federal court's subject matter jurisdiction defined by Article III § 2 or the Congressional enabling statutes of 28 U.S.C. § 1330-1369 and 28 U.S.C. § 1441-1452. It is not an administrative order of a particular judge which defines federal subject matter jurisdiction over the FAC. The net result is that all clients of the Law Office are not afforded a ruling on the urgent relief sought on their motion for preliminary injunction when federal subject matter jurisdiction exists, and there is no finding that any plaintiff client of the Law Office has brought an action which lacks merit or fails to state a cause of action. There is an inference that the December 6, 2011 order is being used as a tactical issue, and again this directly relates the conflict of interest which one considers the timely government claim filed by all clients of the law office and those similarly situated. [10]

Third, if the December 6, 2011 operates to prohibit the Law Office and attorney in good standing with the state bar from bringing an action on behalf of all clients of the Law Office who have demonstrated substantial irreparable harm, then the local rules of the United States District Court for the Eastern District do not specify how to obtain a prefiling order. Without any waiver of the position of all plaintiffs that no pre-filing requirement is required, all clients of the Law Office request that the matter be referred to Chief Judge Morrison C. England make the administrative assessment of the merits of the FAC. There is nothing in the December 6, 2011 order which requires such an assessment to be made by a judge in a different district or a

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[10] See Plaintiffs' Request for Judicial Notice No. 12, September 12, 2011 order in CV12-01725 that dismissal *without prejudice* based the indication of a lack of an evidentiary showing of a timely government claim vs. ¶ 17 and Ex 3 of FAC with a timely government claim filed by Ringgold, Lockhart, and Law Offices and filed as representative of those persons in the class and satisfying the requirements for the class. See *Harris v. County of Orange*, 682 F.3d 1126, 1136 (2012) as long as one plaintiff timely filed an claim, a class of similarly situated plaintiffs may piggyback on that complaint to satisfy the exhaustion requirement. This single filing rule is based on the observation that it would be duplicative and wasteful for complainants with similar grievances to have to file identical notices of intent to sue with a governmental agency).

particular judge; or which permits prejudicial delay in the assessment when urgent relief is being sought. Since this court has had the action before it since March 21, 2012, has reviewed the application for temporary restraining order, the motions to dismiss, motions for preliminary injunction, the requests for judicial notice, the application for accommodation for physical disability, and was served with the petition for writ of mandamus, there is sufficient information to determine whether the action is meritorious, not duplicative, and not frivolous. To cause a further appeal and delay in the disposition of the motion for preliminary injunction is not warranted particularly when it can be shown by ASAP Copy and Print's case that the present action is not an attempt to get around the December 6, 2010 order and that plaintiff clients are being directly impacted by viewpoints asserted in matters pertaining to the Aubry Family Trust. (See Dkt 36-3 p. 17-22 , Dkt 48-5, Decl of Ringgold ¶ 8-12). This court indicates that if leave is granted for a segment of the clients that they would have to file "another complaint". (Dkt 65 p. 12-13). It is unclear whether this court is talking about an entirely different action. In any event the claims of all plaintiffs who are all clients of the Law Office are interrelated and are all covered in the same government claims filed and any amended complaint should be made by all plaintiffs.

From July 24, 2013 to the present day the FAC has been adequately pled as to all plaintiffs. This court should stay its order and grant an immediate stay of all proceedings of the plaintiff Law Office clients pending disposition of the petitions for writ of certiorari in the United States Supreme Court. In support of their motion for preliminary injunction plaintiffs requested judicial notice of the December 3, 2012 order of Justice Kennedy granting ASAP's application for extension of time to file a petition for writ of certiorari. (Plt JN # 24 at Dkt 45 p. 44).

Although not reaching the merits or any cause of action of the FAC, this court has not ruled on the motion for preliminary injunction which presents a real and substantial hardship and continuing irreparable injury. Each client is identified in the prior ex parte application and in the motion for preliminary injunction with extensive detail of the circumstances of their case in relation to the causes of action of the first amended complaint.

Plaintiffs are respectfully seeking relief in the first instance in this court. They request that this court temporarily stay the January 23, 2012 order and partial judgment and stay the underlying proceedings pending determination of the matters in the United States Supreme Court based on the declarations and arguments made in the motion for preliminary injunction as grounds for the temporary stay. Said order is necessary to maintain the status quo between the parties pending review by the United States Supreme Court. See *Newton v. Consolidated Gas Co. of N.Y.*, 258 U.S. 165, 177 (1922). Here, the purposes of justice are served by maintaining the status quo and last uncontested status pending review and there is no prejudice to the defendants.

C. Plaintiffs' Seek Reconsideration and Renew Request For Injunctive Relief and Ruling On The Motion For Appointment Of Special Counsel As Public Trustee Based On Unwaivable Conflicts Of Interest Impacting The Action

Plaintiffs renew their request for the appointment of special counsel as a public trustee which is identified in the FAC, in the request for temporary restraining order, and in their motion for preliminary injunction. The request for the appointment of special counsel to function as a public trustee preceded defendants' motions to dismiss. This is a threshold issue because the conflict of interest identified is not one which can be waived. Defendants cannot simultaneously represent the public's interest and the interest of those subject to constitutional resignation and who benefit from the retroactive immunity provision of section 5 of SBX2 11. See *City of and County of San Francisco v. Cobra Solutions, Inc.*, 38 Cal.4th 839 (Cal. 2006) (entire city attorney's office disqualified), *Flatt v. Superior Court*, 9 Cal.4th 275, 282 (Cal. 1994) (breach of duty of loyalty), (Appeal Nos. 11-5747, 11-56973 vs. 12-16828). The attorney general's office has undivided duty to the public served and a duty not place itself in position of conflicting duties or causes. See *United States v. Carter*, 217 U.S. 286, 306-309 (1910), *Plaquemines Par. Com'n Council v. Delta Dev. Co.*, 502 So.2d 1034 (LA 1987).

D. Plaintiffs Request A Ruling On Their Motion For Preliminary Injunction And Renew Their Request For Temporary Restraining Order And Protective Order Based On The January 25, 2013 Decision In *Noel Canning v. National Labor Relations Board* Which Further Demonstrates A Likelihood Of Success On The Merits

Regardless of the type of case the plaintiffs maintain that they object to further proceedings before persons subject to constitutional resignation without satisfaction of the mandatory requirement of disclosure and consent and they are seeking a special judicial election in municipal districts.[11] *Noel Canning v. National Labor Relations Board* further supports plaintiffs view that there is a likelihood of success on the merits.[12]

In *Noel Canning v. National Labor Relations Board* the court found that it was undisputed that NLRB must have a quorum of three in order to take action and that was further "[u]ndisputed that a quorum of three did not exist on the date of the order under review unless the three disputed members (or at least one of them) were validly appointed." *Id.* at 15. In the instant case it is undisputed that Article VI § 17 mandates that acceptance of public employment and office by a judge of a court of record causes constitutional judicial resignation and that section 5 of SBX2 11 states that it applies notwithstanding any other law (which would include federal law and the United States Constitution). Disclosure and consent is required in the continuing proceedings in the state court. See Cal. Constitution Art. VI § 21. Plaintiffs are seeking injunctive relief because it is imperative to prevent the continuing irreparable harm.[13] Plaintiffs contend that the United States Constitution, federal law, and the California Constitution Article VI § 17 and § 21 must prevail. *Noel Canning*, relying on *Marbury v. Madison*, found that when two laws conflict with each other that the court must decide the operation of each and strike down the unconstitutional act. It determined that the NLRB did not have a quorum because the President of the United States

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[11] i.e. See FAC ¶8, 14-17, 31, 39, 40, 56, 67, 78-88, Ex 2 p 8-11, 20-21.

[12] See *Phelps* at 1124 (granting motion for reconsideration and to vacate based on change in law).

[13] Plaintiffs claim that after *Sturgeon v. County of Los Angeles*, 167 Cal.App.4th 630 (Cal. 2008) an unconstitutional condition was unveiled and that the uncodified section 5 of SBX2 11 is and unconstitutional attempt avoid the mandatory and constitutional requirement of disclosure and consent.

made appointments during an intrasession recess and it vacated the decision of the NLRB. *Id.* at 29-30. It further held: "[¶]…[I]f some administrative inefficiency results from our construction of the original meaning of the Constitution, that does not empower us to change what the Constitution commands. … The power of a written constitution lies in its words. It is those words that were adopted by the people. When those words speak clearly, it is not up to us to depart from their meaning in favor of our own concept of efficiency, convenience, or facilitation of the functions of government." *Id.* at 39.[14]

E. This Court Should Reconsider And/Or Vacate Its Ruling On Defendants' Request For Judicial Notice Because There Is Clear Prejudicial Error

Plaintiffs' request for judicial notice was submitted with respect to their motion for preliminary injunction and as to their motion to strike in opposition to defendants' request for judicial notice. This is shown by the declaration setting forth the relevant adjudicative facts which was filed. (Dkt 45 p. 28-45). Defendants filed a request for judicial notice without identifying the relevant adjudicative facts and without satisfying the basic requirement of authenticating the documents for which notice was sought. See *Guzman-Ruiz v. Hernandez-Colon*, 406 F.3d 31, 36 (1st Cir. 2005), *Old Republic Ins. Co. v. Hansa World Cargo Service, Inc,* 170 FRD 261 (SD NY 1997). The court does not identify which specific items for which notice was granted, the relevance, or the purpose for which judicial notice was granted. Plaintiffs respectfully request that the court identify the which specific requests for judicial notice of plaintiffs and defendants were granted. As discussed above, the indication that plaintiff client Ringgold was removed as trustee is shown to be incorrect. (See Ex 7-9). Any other evidence by hearsay and disputed reference in defendants' request for judicial notice is improper and without an evidentiary hearing and is improper.

[14] Compare Ex, writ of certiorari in *Ringgold et al. v. Brown* et al at page 15-16.

With the court's indication that it lacks of subject matter jurisdiction there is clear prejudicial error because the court was required to accept the factual allegations of the complaint as true. The December 6, 2011 order is extrinsic to the proceedings and not proper for consideration on the Rule 12 (b)(1) or Rule 12 (b)(6) motion. If the question of subject matter jurisdiction is dependent on the resolution of factual issues, the court is not to resolve genuinely disputed facts. *Roberts v. Corrothers,* 812 F.2d 1173, 1177 (9th Cir. 1987). The manner of interpretation of the December 6, 2011 order go to directly to the merits.

The court's ruling on disputed factual issues directly relate to all plaintiffs' claims of viewpoint discrimination and retaliatory use of CCP § 391.7 as a form of retaliatory and impairment of associational First Amendment rights. The judges of the probate department of the state court have a direct pecuniary interest in cases. This is because the state court was charging graduated filing fees as a percentage of trusts and estates and at the same time these graduated filing fees were going to the general treasury of the County and used to fund the supplemental compensation of the judges and others engaged in the proceedings (i.e. investigators, appointed counsel). See *Tumey v. Ohio*, 273 U.S. 510 (1927), *Ward v. Monroeville*, 409 U.S. 57 (1972). As the grievances arose there was a retaliatory use of CCP § 391.7 arising against the clients of the Law Office (some within the probate department and some in other areas). The sheer breath of the court's interpretation of the December 6, 2011 order and its indirect application to all clients of the law office to delay disposition of the request for injunctive relief severely impairs all plaintiffs' first amendment right to associate in pursuit of political, social, economic and cultural ends and their ability to address as a group the discriminatory policies antithetical to the concept of equality for all persons. See *NAACP v. Alabama ex rel. Patterson,* 357 U.S. 449, 460 (1958), *Boy Scouts of America v. Dale*, 530 U.S. 640 (2000).

Unless the court holds an evidentiary hearing, it is required to accept as true the factual allegations of the complaint. *McLachlan v. Bell*, 261 F.3d 908, 909 (9th Cir. 2001)("This case was dismissed for lack of subject matter jurisdiction on a motion pursuant to Federal Rule of Civil

Procedure 12 (b)(1). Declarations were submitted on both sides, as well as the complaint, but the district judge held no evidentiary hearing. Because no evidentiary hearing was held, we accept as true the factual allegations in the complaint"), *Augustine v. United States*, 704 F.2d 1074, 1077 (9th Cir. 1983) ("…[W]here the jurisdictional issue and substantive issues are so intertwined that the question of jurisdiction is dependent on resolution of factual issues going to the merits, the jurisdictional determination should await determination of the relevant facts or either a motion going to the merits or at trial"), *Greene v. United States*, 207 F.Supp.2d 1113, 1119, fn 4 (E.D. Cal. 2002)(noting that under the rule of *Augustine* the district court presumes the jurisdictional allegations in the complaint are true when the facts on the merits are intertwined with the jurisdictional facts). It was error for the court to consider defendants' request for judicial notice or consider the issue of December 6, 2011 order in the context of defendants' Rule 12 (b)(1) motion. Instead, the court should have granted plaintiffs' motion to strike because they demonstrated that Brown had already conceded by admission that an trustee and executor had to appear in a legal proceeding by an attorney and in this action plaintiff Ringgold is only appearing as a party in such capacity.[15]

F. This Court Should Reconsider And/Or Vacate It Is Ruling On Defendants' Motion To Dismiss

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[15] The cases cited in the January 23, 2013 ruling are inapplicable. *Savage v. Glendale Union High Sch.*, 343 F.3d 1036, 1039 n.2 (9th Cir. 2003) did not involve an administrative order. The jurisdictional and substantive issues were not intertwined. *Li v. Chertoff*, 482 F.Supp.2d 1172, 1175 (S.D. Cal. 2007) is cited for the proposition that in a factual attack the challenger "disputes the truth of the allegations that, by themselves, would otherwise invoke federal jurisdiction". (Dkt 65 p. 5). The January 23, 2013 order does not identify anything in the December 6, 2011 order or any non-hearsay matter that is the proper subject of judicial notice which disputes the allegations of the FAC. *White v. Lee*, 227 F.3d 1214, 1242 (9th Cir. 2000) is cited for the proposition that a court may resolve factual disputes by looking beyond the complaint and need not presume the truthfulness of the allegations. In that case the challenge involved the court's subject matter jurisdiction under Article III, the court specifically identified the documents for which judicial notice was granted, and those documents directly related to subject matter jurisdiction under Article III.

Plaintiffs request that this court reconsider and/or vacate this order on defendants' motion to dismiss for the reasons set forth above and in the section on the motion for sanctions. Other than the December 6, 2011 order the order and partial judgment does not identify a basis for the determination of law of subject matter jurisdiction. (Dkt 65 p. 12 "Defendants Brown, Harris, and Howle's Motions to Dismiss are GRANTED because the Court lacks subject matter jurisdiction over this action."). Additionally, the determination of the conflict of interest and appointment of special counsel to act as public trustee is a threshold issue which should be decided before allowing defendants to put forth their argument and claims concerning the December 6, 2011 order.

If there were a lack of subject matter jurisdiction, the denial of leave to amend as to a subset of plaintiffs to file a different action functions as a dismissal with prejudice. See *Kelly v. Fleetwood Enterprises, Inc.*, 377 F.3d 1034 (9th Cir. 2004), *Frigard v. U.S.*, 862 F.2d 201 (9th Cir. 1988). There is nothing in the December 6, 2011 order, statutory or common law authority, or the local rules of court of the United States District Court for the Eastern District which identifies a procedure of ongoing outside the district to resolve the issue. In fact the Ninth Circuit in *Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047, 1056 (9th Cir. 2007) recognized that each District Court makes its own vexatious litigant determination.[16] This court has not made any such determination. The December 6, 2011 order is not applicable to Nina Ringgold as an attorney or a trustee or executor (who is required by law to appear through an attorney); the order is the subject of a pending appeal; and neither Ringgold nor Lockhart are appearing in this action in propria persona.

G. This Court Should Reconsider And/Or Vacate The January 23, 2013 Judgment, Or Enter A Partial Certified Judgment

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[16] "Two district courts in our circuit disagree about whether Molski's frequent litigation is vexatious. In this case, the Central District of California deemed Molski a vexatious litigant. See *Mandarin Touch I*, 347 F.Supp.2d at 868. However, the Northern District of California has denied a motion to declare Molski a vexatious litigant in that district. See *Molski v. Rapazzini Winery*, 400 F.Supp.2d 1208, 1212 (N.D.Cal.2005)."

The partial judgment incorrectly states that a trial or hearing took place. (Dkt 66). It is not in compliance with Rule 58 or Rule 79 (a). It does not adjudicate all claims all parties. See *Nascimento v. Dummer*, 508 F.3d 905, 908 (9th Cir. 2007). Therefore, it should be vacated. Plaintiffs request under 28 U.S.C. § 1292 and Rule 54 (b). Whether or not certification is allowed, plaintiffs requests a stay of the order and judgment and the underlying proceedings.

Under 28 U.S.C. § 1292 (b) an interlocutory order deciding a critical legal issue is reviewable if the order has been certified for appeal by the district court and the appellate court in its discretion accepts jurisdiction. Plaintiffs request that this court find that the order and judgment involve controlling questions of law as to which there is a substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation.

Absent a Rule 54 (b) certification, an order for sanctions under Rule 11 is not generally appealable prior to entry of a final judgment. The appealability of the order depends on the issue of who is being sanctioned. The order indicates that plaintiffs Ringgold and Ringgold-Lockhart are ordered to pay or make arrangements to pay sanctions. (Dkt 65 p. 13). Ringgold is appearing as a client plaintiff solely in her capacity as a named trustee in a trust instrument and final order and a named executor named in a decedent's will, not in her personal capacity. Therefore, it is unclear when the court indicates "plaintiff" whether it is awarding sanctions against a non-party attorney or the plaintiff client and party "trust and estate". As to Lockhart it is also unclear if the court is awarding sanctions against him as a party plaintiff client of the Law Office or non-party attempting to be a party of all clients of the Law Office. In any event the distinction is not merely semantics when considering the issue of appealability. See *Riverhead Sav. Bank v. National Mortg. Equity Corp.*, 893 F.2d 1109, 1113 (9th Cir. 1990). Therefore, plaintiffs respectfully request that this court also certified its order and judgment under Rule 54 (b) as well. Plaintiffs request that this court determine that there is no just reason for delay in entry of the order and judgment and related issues under Rule 54 (b) as to client plaintiff "Nina Ringgold, Esq. as named trustee of the

Aubry Family Trust and named executor under the will of Robert Aubry on behalf of the trust and estate" and client plaintiff "Justin Ringgold-Lockhart. *Morrison-Knudsen Co., Inc. v. Archer*, 655 F.2d 962, 965 (9th Cir. 1981).[17] This court's ruling indicates that it is finding that the factual and legal issues as to a subset of all plaintiff clients of the Law Office are substantially different and severable.

H. This Court Should Reconsider And/Or Vacate The Order And Judgment As To The Elderly Out Of State Client Who Is Substantially Harm By Delay On Ruling On The Motion For Preliminary Injunction

As to the client(s) of the law office who are citizens of a different state as discussed above there is a reasonable basis for asserting that as to their claims there is original but not exclusive jurisdiction un the Supreme Court under 28 U.S.C. § 1251. For, example plaintiff client Cornelius Turner is 85 years old and his wife is 88 years old residents of the State of Mississippi. They have been seeking a stay in these proceedings from inception of the case. They have never been deemed vexatious litigant but have been treated as such solely based on their association with the Law Office and their viewpoint that section 5 of SBX2 11 is constitutional and that they have a right to disclosure and consent in the state court proceedings and to injunctive relief to the continual impairment of their legal rights and interests. Due to the client's age an need for injunctive relief said client intends to seek immediate relief and object to an excised complaint which they contend is a continuing form of viewpoint discrimination..

I. This Court Should Reconsider And/Or Vacate The Order Granting The Motion For Sanctions Of Brown And Harris And Enter An Order As To The Disposition Of Plaintiffs' Request For Sanctions

The order does not mention the plaintiffs' request for sanctions in the amount of $35,140 and plaintiffs request a ruling as to this request. The opposition of plaintiffs argued that filing of the Rule 11 motion itself was sanctionable. (See Dkt 52 p. 22-28). They argued that the motion

[17] In Section I herein plaintiffs request that this court modify the order and determine that sanctions shall only be imposed against Ringgold.

itself was filed for an improper purpose, lacked legal and factual support, and in some cases was intentionally misleading. They argued that the motion filed as part of a failed strategy whereby (1) these defendants admitted a major component of the challenge to CCP § 391.7, (2) then Judge Real made a finding that the State of California was responsible for the acts of state court judges, and (3) then due to their conflict of interest they failed to file a cross-action or appeal from the order concerning the County of Los Angeles. (Dkt 52). Moreover, the new evidence presented herein shows that these defendants always knew that the claims of the clients of the Law Office were not "window dressing" and that all plaintiff clients the law office harm suffered is real and substantial. (Ex 5).

Plaintiffs do not have the ability to pay the sanction awarded . If the court does not reconsider or vacate its order, the that it stay of this order pending appeal (by certification under Rule 54 (b) or 28 U.S.C. 1292). As to plaintiff Lockhart the sanction order should be vacated because filing of the complaint was solely based on the legal assessment counsel who reasonably believed and understood was consistent the applicable law of the Ninth Circuit and interpretation of the December 6, 2011 order. See Rule 11 Advisory Committee notes, 1993 Amendments, Subdivision (b) and (c) (sanctions may not be imposed on a represented party for causing violation of subdivision (b)(2)). (Decl. of Ringgold ¶ 13). As to plaintiff Ringgold, the decision is not clear whether it is being imposed against Ringgold in her capacity as the named trustee and executor or as counsel for the plaintiffs.

1. The Sanction Order Is In Error Based On The Court's Adjudication Of Lack Of Federal Subject Matter Jurisdiction And The Standard Applied

This court's order is concurrently based on lack of federal subject matter jurisdiction and this fact combined with the view that Judge Real's December 6, 2011 defines the federal subject matter jurisdiction of all District Court in the United States, leads to a result that the court lacks judicial power under Article III to impose a sanction. The case of *Willy v. Coastal Corporation*, 503 U.S. 131 (2001) is not applicable because in that case the judge in the same case in the same district had improperly held that he had subject matter jurisdiction and a final judgment was entered.

This judge was reversed on appeal with the appellate court finding that he did not have subject matter jurisdiction. In a subsequent appeal, it was determined that a collateral attack based on lack of subject matter jurisdiction would not lie. *Willy* does not stand for the proposition that a district court which holds that there is a lack of federal subject matter jurisdiction over an entire action has the power or authority can simultaneously act beyond its judicial power under Article III to impose sanctions. The interest in *Willy* was that as a policy matter that putting an end to litigation justified the rule of preventing a collateral attack, not that a court that holds that it lacks federal subject matter jurisdiction may also adjudicate other matters while making this determination.[18]

The January 23, 2013 order omits the fact that Ringgold as a practicing attorney is not governed by any vexatious litigant determination and the December 6, 2011 order itself. (plaintiffs' request for judicial notice shows that December 6, 2011 order is based on two case (1 which was dismissed for lack of subject matter jurisdiction) and no case being filed by Lockhart in propria persona in his lifetime. (See Plt JN #21). As to each plaintiff in the action there has been no vexatious litigant order on motion under the procedures of CCP 391-391.6 in the state court. (See Plt JN #25).

The December 6, 2011 order states: "[p]laintiff Nina Ringgold is subject to the order in her capacity as an individual, not as an attorney. This distinction is made in order to comply with the holding of *Weissman v. Quail Lodge Inc.*, 197 F.3d 1194 (9th Cir. 1999)". See *Weissman v. Quail Lodge Inc.*, 197 F.3d 1194 (9th Cir. 1999) held as follows:

> "Insofar as our research has uncovered, no court in this circuit has ever imposed a vexatious litigant order on an attorney. We do not believe that the vexatious litigant doctrine was ever intended to control attorney conduct and we do not propose to approve its application in this case as a means of controlling attorney conduct. For example, the California vexatious litigant statute limits the definition of a "vexatious

[18] Brown and Harris cannot argue that this action is a collateral attack as to pending litigation in a different district.

> litigant" to one who acts "in propria persona." Cal.Civ.Proc.Code § 391.7. ***Similarly, the only district court in this circuit to have adopted a vexatious litigant rule provides that the court may "proceed by reference to the Vexatious Litigants statute of the State of California, Cal.Code Civ. Proc. §§ 391 -391.7." Cent. Dist. of Calif. Local R. 27A.4.*** We therefore conclude that an attorney appearing on behalf of a client cannot be sanctioned as a vexatious litigant; by definition, he or she is acting as an attorney and not as a litigant." Id at 1197. (Emphasis added).

As indicated above, the Ninth Circuit in *Molski v. Evergreen Dynasty Corp, 500 F.3d 1047, 1056* recognized that each District Court made its own vexatious litigant determination. There has been no determination in the Eastern district or any other district that Ringgold (in any capacity) or Lockhart (represented by counsel)[19] are vexatious litigants. The Local Rules of the Eastern District does not have any applicable rule pertaining to this circumstance, determination of vexatious litigant status, or a determination by another court. Consistent with the Rules Enabling Act the rules may not abridge or modify any substantive right. See 28 U.S.C. § 2072. Therefore, the court follows the Ninth Circuit's decision each District Court follows the standards established by *Weissman* and *De Long v. Hennessey*, 912 F.2d 1144 (9th Cir. 1990). Such separate district court determination is consistent with the local rules of the Central District which state that (1) its rules apply to all civil actions and proceedings in its district (L.R. 1-1), (2) that its rules pertain to a judge who has been assigned to that court and that the term court pertains to judges assigned to that court (L.R. 1-4 (a)); and that in that court it makes rules as to a vexatious litigant under standards that include CCP § 391.1-391.7 (L.R. 83-8.2, 83-8.4). In this litigation in the Eastern

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[19] In the federal and state court persons represented by counsel are not vexatious litigants. See *Stewart v. California Department of Education*, 2012 WL 4133160 *2, No. 10-55282 (9th Cir. Sept. 20, 2012)(unpublished), *Shalant v. Girardi*, 51 Cal.4th 1164, 1173 (Cal. 2011). Therefore, the reference to Lockhart's claims in the December 6, 2011 order must be construed that Ringgold solely acting as trustee cannot appear in a legal proceeding to raise claims of Lockhart as a beneficiary and interested person in the trust and estate. See *Ziegler supra.* Consistent with California law which allows trustees to appear through a Law Office and allows family members to act as attorneys and trustees, the order must be interpreted consisted with the law.

District, all plaintiffs are challenging the unconstitutionality of the state statute CCP § 391.1-391.7 and the Eastern District Local Rules have not adopted this standard or adopted the Local Rules of the Central District.[20] The December 6, 2011 order is an administrative order of the Central District by a single judge who had been divested of jurisdiction after an appeal had been filed. (Plt JN # 14-17). It is limited to the Central District and there is nothing in the order which requires Ringgold as the attorney for all clients of her law office and in a fiduciary capacity or Lockhart to obtain permission to file any action that relates to the Aubry Family Trust or "administration of state courts or probate courts" The order states permission is requires from "this Court" and does not say "this judge". Moreover, the local rules of the Central District expressly provide that such an administrative order concerning application of CCP § 391-391.7 is enabled and authorized solely through local rules that pertain the Central District court. See *Molski v. Evergreen Dynasty Corp.*, 521 F.3d 1215, (9th Cir. 2008) (dissent Kozinski, Chief Judge) discussing state of local rules of Central District regarding vexatious litigant).[21]

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[20] This highlights the error in (1) Brown and Harris using a prefiling order as a ground of its motion to dismiss as to all plaintiffs, and (2) the tactical abuse because based on their (a) formal admission, and (b) refusal to participate in the proceedings conducted by Judge Real or to participate in the subsequent appeal. They could have filed an order to show cause in the Central District before Judge Real, however they will not even defend the December 6, 2011 order in the United States Court of Appeal. However, in this action in a different district, where the order is not applicable, they are using it for an improper purpose to harass and cause unreasonable delay.

[21] "Fortunately, there's a cure. The lawyers and judges of the Central District don't have to put up with this kind of tyranny by one judge acting entirely on his own. A member of a multi-judge court should not be able to single-handedly cut off one party or law firm's access to all the other judges of the court. The Central District judges can and should adopt a local rule or general order that any judge wishing to bar a litigant or a law firm from accessing the court must obtain the concurrence of a committee of his colleagues. Enforcement of the order, too, should not be entrusted to the judge who entered it, as he may take an unduly broad view as to its scope. Far wiser, and fairer, to have other judges, drawn at random, enforce the order in future cases."

Finally, the December 6, 2011 is on appeal and was appealable because it was filed with an appeal of right under 28 U.S.C. § 1292 (a)(1) in *Justin Ringgold-Lockhart et al v. County of Los Angeles* et al CV11-01725. However a final judgment pursuant to Rule 58 and 79 (a) has not yet been executed or entered. See *Molski*, 500 F.3d at 1055-1056. (pre-filing orders are not conclusive and can be reviewed and corrected after final judgment). Irrespective of the lack of finality it is inapplicable to this action.

2. The Sanction Order Is In Error Based On The Standard Of Rule 11

a. Complaint As The Primary Focus

The decision states that the complaint is the primary focus of the Rule 11 proceeding and that it conducted a two-prong inquiry to determine (1) whether the complaint is legally or factually baseless from an objective perspective, and (2) if the attorney has conducted a reasonable and competent inquiry. (Dkt 65 p.10). However, if the court never addresses the legal and factual basis of the complaint, the actual merits of the causes action, there cannot be an objective assessment as required by Rule 11. Therefore, the first prong of the inquiry has not taken place. As to whether there was a reasonable and competent inquiry, the complaint itself establishes this fact by providing the government claim and its rejection and the staff memorandum of the California Law Commission showing advance knowledge that trial court unification could violate the Voting Rights Act of 1965. Plaintiffs also provided the opinions of the California Commission on Judicial Performance, the decision in *Candace Cooper v. Controller of the State of California et al*. LASC BC425491, and Attorney General Opinions 83-607, 12-602. Moreover, the recent case of *Noel Canning v. National Labor Relations Board* supports the claims of plaintiffs. There is no indication in the decision that the second prong was not satisfied.

b. Under Rule (b)(1) The Claims And Legal Contentions Are Warranted By Existing Law Or By Nonfrivolous Argument For Extending, Modifying, Or Reversing Exhibit Law Or For Establishment New Law

As to this statutory provision the court does not state that the claims or legal contentions of the first amended complaint do not meet this standard. Instead, the court does not

discuss the merits of the claims and legal contentions of the FAC and focuses on the December 6, 2011g order which is not applicable in this district or to all plaintiffs. Therefore, the is not indication that the complaint is frivolous in whole or in part.

c. Under Rule (b)(2) The Factual Contentions Have Evidentiary Support

The decision states: "Plaintiff Ringgold's argument that she is named only in a representative capacity for the Aubry Trust fails because she was removed as trustee by the California Probate Code." (Dkt 65 p. 7, line 20-22). This statement is in error and plaintiffs provided a final order governed by res judicata as well as the trust instrument demonstrating that Ringgold is named trustee. (Plt JN# 6 (Ex2 there)), See also order at Decl ¶7 &8). As set forth in the opposition to the motion for sanctions and defendants' request for judicial notice, Brown and Harris attempt to conceal this order by providing incomplete copies of court filed documents. There is no competent evidence to dispute the final order or the terms of the trust. The attempt to prove otherwise through hearsay references by Brown and Harris merely highlights that the matters are subject to reasonable dispute and not the proper subject for judicial notice on the motion to dismiss or motion for sanctions.

d. Under Rule (b)(1) Pleading Is Not Filed For An Improper Purpose.

The court's sanction order is primarily based on this factor, that is, that the first amended complaint is being presented for an improper purpose. The improper purpose is identified as "to circumvent the vexatious litigant order issued in the Central District of California."

First, the idea that well pled and researched complaint filed in the proper district was to circumvent the December 6, 2011 order has no support from the record presented and the new evidence of the declaration and writ of certiorari of ASAP demonstrates otherwise. (Ex 2 & 5 Decl of Ringgold ¶ 8-12).

Second, assuming the December 6, 2011 is applicable the decision does not set forth its interpretation of the order. The court was not required to consider the order, but once it undertook to consider it, it is require to interpret it in accord with the applicable law. Plaintiffs'

counsel had a reasonable belief based on decisions of the Ninth Circuit that the order was limited to the Central District and it cannot be disputed that this case was filed proper district.

The decision states that "[t]he FA clearly seeks personal relief for Plaintiff Ringgold related to the Aubry Trust and property of the trust" citing to FAC ¶¶ 5-6, 44, 144 (), 144 (e), 145 (b), 220, 235. (Dkt 65 p. 7). In appearing on behalf of the trust Ringgold is not appearing seeking relief on behalf of herself but on behalf of the trust and any relief obtained would be for the trust and all those specified in the trust instrument in accord with its terms. The complaint expressly states that Ringgold is appearing as named trustee of the Aubry Family Trust and named Executor under the will of Robert Aubry *on behalf of the trust and estate* and all similarly situated entities and/or person". The section cited by the decision do not demonstrate that Ringgold is seeking relief in a personal capacity. Moreover the cited section fail to consider the paragraphs incorporated including FAC ¶ 7-8, 13-17, 39-40, 54.

FAC at ¶ 5 is a general allegation and states: "Ringgold is a named trustee of the Aubry Family trust (both testamentary and inter vivos trust), a named executor under the will of Robert Aubry, and an heir of the Mary Louise Aubry and Robert Aubry.". (See also FAC ¶ 43). Ringgold as a defined term in the FAC is specified in her representative capacity.

FAC ¶ 44 is a general allegation that does not seek any personal relief whatsoever. It is a general allegation and states that nonappealable orders are made without bond are used to liquidate private family trusts and the Aubry Family Trust is an example of this method.

FAC ¶ 144 (a) involves an allegation within the cause of action under 42 U.S.C. § 1983 (First and Fourteenth Amendment)/Civil Rights Act of 1871 and it does not identify any personal relief separate from the trust but rather identifies the methods in which trustee is divested of the property right in the power of appointment and access to property.

FAC ¶144 (e) involves an allegation within the cause of action under 42 U.S.C. § 1983 (First and Fourteenth Amendment)/Civil Rights Act of 1871 and does not solely relate to the Aubry Family Trust, Ringgold, or Lockhart and specifies that plaintiff clients of the Law Office

have suffered "penalties and retaliation as a form of viewpoint discrimination because the positions asserted in the matter of the Aubry Family Trust conflicted with the proceedings of the Probate Task Force of the California Judicial Council." This claim relates to all plaintiffs whether their case is in pending in the probate department or in the civil department and is does not seek relief in a personal capacity.

FAC ¶144 (e) involves an allegation within the cause of action under 42 U.S.C. § 1983 (Fifth Amendment)/Civil Rights Act of 1871 and it is alleges discriminatory qualification criteria used as a method to divest families and the Aubry Family Trust of property. This claim does not seek relief in a personal capacity.

FAC ¶220 involves an allegation within the cause of action involving violation of California Civil Code § 53 (b) that alleges that Ringgold "is a named trustee in the trust instrument and confirmed by final order which was never challenged by motion for reconsideration, writ of mandate, or appeal in the state court" and again describes in general that the "restriction on title and ownership of African American trustees named in the trust instrument is based on a discriminatory requirement and is void and is an unconstitutional taking and divestment of property." This claim does not seek relief in a personal capacity and there are other plaintiff clients of the Law Office who are African American trustees impacted by the same discriminatory requirements alleged in the complaint and they are incorporated by reference by earlier allegations.

FAC ¶ 235 involves an allegation within the cause of action for conversion and it alleges that there was a right to possession of property of the trust, that the proceedings were conducted in a manner inconsistent with the constitution depriving plaintiffs of their inheritance, to possession of the power of appointment and discretions named by the trustees named by the Aubrys. This claim does not seek relief in a personal capacity and there are other plaintiff clients of the Law Office impacted by the same exact claim and they are incorporated by reference by earlier allegations.

The prayer for relief Ringgold in the capacity as named trustee and executor does not seek relief in a personal capacity.

The decision states "the December 6, 2001 Order also applies to Plaintiff Ringgold-Lockhart, and he is clearly participating in this lawsuit in his personal capacity" and cites to FAC ¶ 6. (Dkt 65 p. 7). FAC ¶ 6 is a general allegation and in pertinent part states: "Lockhart is a client of the Law Office of Nina Ringgold. He is a beneficiary and interested person with respect to the trust and estates of Mary Louise Aubry and Robert Aubry." The December 6, 2011 order must be read with the applicable law in its interpretation and construction. First, as addressed above, vexatious litigant orders in the state and federal court do not apply to persons represented by an attorney and the order does not bar any conduct of Ringgold in representing a client. There is nothing in the order which states that Lockhart cannot bring an action represented by an attorney. As discussed above, proper construction of the order which does not impair substantive rights is that Ringgold as a trustee is unable to raise claims of Lockhart as a beneficiary for this requires representation through a Law Office in accord with *Ziegler supra,* not that Lockhart cannot have legal representation.

As a fundamental point, based on the above interpretation, the court never reaches the issue of whether the action relates to the "Aubry Revocable Family Trust" or "the administration of state courts or probate courts" because (1) the order only pertains to the Central District, (2) Ringgold is not appearing in a personal capacity, and (3) Lockhart, like each plaintiff, is represented by an attorney. Assuming, arguendo that the court reaches the issue of interpretation the meaning of "relates to the Aubry Revocable Family Trust" or "the administration of state courts or probate courts", the construction must be narrowly drawn so as not to impair substantive rights.

Lockhart has no legal right as a beneficiary to bring an action on behalf of the testamentary or inter vivos trust. He is not a trustee and any relief he would receive by recovery of the trust is by the terms of the trust. He is not seeking any relief as to the internal administration of the

Aubry Family trust or administration of a decedent's estate. He is, however, independently representative of clients, such as ASAP others clients of the Law Office, and those similarly situated. (i.e. Clients who are seeking an election, compliance with the disclosure and consent requirement, and have been impacted by CCP § 391.7 in the state court as a form of viewpoint discrimination).

The term "administration of the state courts" cannot be construed to include statutory or constitutional claims concerning fair and equal access to the court, fair administration of justice, discrimination in public accommodation, or causes of action involving state programs which receive state a federal financial assistance as an element of the cause of action. The complaint is not concern the amount of judicial pay, how a judge supervises clerks or how a judge allocates his workload, and such matters to which general court administration. The decision indicates that the complaint violates the order without reference to the causes of action. In view of the causes of action of the complaint, it is evident, there is no bar by the December 6, 2011 order. For example, court administration in this context does not include a claim concerning the fundamental right to vote under Voting Rights Act of 1965 [*Gonzalez v. Arizona*, 677 F.3d 383 (9th Cir 2012) (Cause of Action 3); relief under the Political Reform Act which deals with conflict of interests of all public officials Cause of Action No. 4); Access to the court to clients of the Law Office based on refusal to provide accommodation for disability to their legal representative under Title II of the ADA or 504 of the Rehabilitation Act (Cause of Action No. 5 &6), discrimination and securing rights protected by the United States Constitution. (Cause of Action No. 7), or seeking declaratory and injunctive relief under the Whistleblower Protection Act. (Cause of Action No. 9).

The December 6, 2011 order is not applicable to this action, and if applicable, there was no violation of the order.

e. Requests Concerning The Inability To Pay And Stay Pending Appeal

Plaintiffs request an opportunity to submit information in accord with this court's requirements of their inability to pay either jointly or severally the sanction amount of $9,520 or to

post an appeal bond and request directions in this regard. The court is to consider the financial ability to pay. See *Haynes v. City and County of San Francisco*, 688 F.3d 984 (9th Cir. 2012)(abuse of discretion to decline attorney's indication of inability to pay); *Christian v. Mattel, Inc.*, 286 F.3d 1118 (9th Cir. 2002); Rule 11 Advisory Committee notes, 1993 Amendments, Subdivision (b) and (c) (available alternative sanctions include admonition, participation in seminars or other educational program and should not be more severe than reasonably necessary to deter repetition). Plaintiffs request that the court consider an alternative non-monetary sanction and stay any monetary sanction pending appeal. Additionally, in view of plaintiffs request for sanctions which the court does not address, there is a reasonable basis for modification of the sanction as an offset. This includes but is not limited including documents in the request for judicial notice (that specifically omitted the final order confirming appointment of plaintiff Ringgold as trustee), matters pertaining to the unwaivable conflict of interest, omitting reference to the fact that the December 6, 2011 order does not pertain to Ringgold as an attorney or reference to a prior written admission, failing to present any adjudicative fact in the request for judicial notice, and falsely claiming that Brown had Harris had previously been sued in the state court and that various matters had been dismissed with prejudice. Additionally, the new evidence shows that in a prior action that Brown and Harris knew of plaintiff clients of the Law Office ASAP and Ali Tazhibi. (Ex 5).

III. CONCLUSION

For the foregoing reasons, it is respectfully requested that this court grant the relief sought as detailed in the proposed order submitted herewith.

Dated: January 30, 2013

LAW OFFICE OF NINA RINGGOLD
By: s/ Nina R. Ringgold, Esq.
Nina Ringgold, Esq.
Attorney for the Plaintiffs

Certificate of Service

I hereby certify that on January 31, 2013, I electronically filed the following documents with the Clerk of Court by using CM/ECF system:

PLAINTIFFS' EX PARTE APPLICATION (1) FOR STAY PENDING DISPOSITION OF PETITION FOR WRIT OF CERTIORARI OR OTHER REVIEW; (2) FOR RECONSIDERATION AND/OR TO VACATE, OR FOR OTHER RELIEF (INCLUDING LEAVE TO AMEND); ALTERNATIVELY, FOR (4) FOR STAY AND CERTIFICATION UNDER RULE 54 (b) AND/OR 28 U.S.C. § 1292

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system. On January 31, 2013, I have mailed the foregoing document(s) by First Class mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within three (3) calendar days to the following non-CM/EFC participants:

None applicable

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and this declaration was executed on January 31, 2013 at Los Angeles, California.

s/ Matthew Melaragno

APPENDIX 14

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

NINA RINGGOLD, ESQ. as named Trustee of the Aubry Family Trust and named Executor under the will of Robert Aubry on behalf of the trust and estate and all similarly situated entities and/or persons; et al.;

Plaintiff,

v.

JERRY BROWN in his Individual and Official Capacity as Governor of the State of California and in his Individual and Official Capacity as Former Attorney General of the State of California; et al.;

Defendant.

No. 2:12-CV-00717-JAM-JFM

ORDER DENYING PLAINTIFFS MOTION FOR STAY AND RECONSIDERATION; ORDER TO SHOW CAUSE

Presently before the Court is Plaintiffs' Ex Parte Application (Doc. # 67) seeking 1) a stay of the Court's January 23, 2013 Order (Doc. # 65) and a series of state court cases; 2) reconsideration of and an order vacating the Court's January 23,

2013 Order; and/or 3) a stay and certification of partial judgment pursuant to Fed. R. Civ. P. 54(b) or 28 U.S.C. § 1292. In the body of Plaintiffs' motion, they also seek a ruling on a motion for sanctions, which they claim was included in opposition to Defendants' motion for sanctions (Doc. # 52).

1. Motion for Reconsideration

Plaintiffs move for reconsideration of the Court's January 23, 2013 Order and a stay of numerous state court cases pending the outcome of certiorari petitions to the United States Supreme Court in this action and another action. Since Plaintiffs' proposed order seeks the same relief that was denied in the Court's January 23, 2013 Order, the Court will consider the request for reconsideration and for stay as one motion for reconsideration.

"[A] motion for reconsideration should not be granted, absent highly unusual circumstances, unless the district court is presented with newly discovered evidence, committed clear error, or if there is an intervening change in the controlling law." Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co., 571 F.3d 873, 880 (9th Cir. 2009) (quotation omitted).

Plaintiffs' motion fails to meet the motion for reconsideration standard. The motion is a reiteration of the same arguments and theories extensively briefed prior to the Court's order on Plaintiffs' Application for a Temporary Restraining Order and the motions decided in the Court's January 23, 2013 Order. Plaintiffs' reliance on recently decided Noel Canning v. NLRB, Nos. 12-1115, 12-1153, 2013 WL 276024, — F.3d —, 194

L.R.R.M. 3089 (D.C. Cir. Jan. 25, 2013), a case that analyzed the constitutionality of recess appointments made under the federal Constitution, is misplaced because that case has nothing to do with the issues presented in Plaintiffs' suit. The request for reconsideration is therefore DENIED.

2. Certification of Partial Judgment

Plaintiffs next seek certification to appeal the Court's January 23, 2013 Order under 29 U.S.C. 1292(b). Certification under 28 U.S.C. § 1292(b) is denied because Judge Real's pre-filing was the primary basis for the Court's January 23, 2013 Order. Judge Real's order can be appealed directly, making 28 U.S.C. § 1292(b) certification in this case unnecessary at this time.

Plaintiffs also seek entry of partial judgment pursuant to Rule 54(b) on the Court's order entering sanctions against Plaintiffs Ringgold and Ringgold-Lockhart. Plaintiffs seek partial judgment because they claim it is unclear as to whether sanctions were entered in their capacity as parties to this action or non-parties. The Court clearly entered sanctions against Plaintiffs Ringgold and Ringgold-Lockhart in their capacity as parties to this lawsuit. Certification under Rule 54(b) is therefore unnecessary, and this matter will be subject to appeal upon entry of final judgment in this action. Riverhead Sav. Bank v. Nat'l Mortg. Equity Corp., 893 F.2d 1109, 1113 (9th Cir. 1990).

3. Plaintiffs' Motion for Sanctions

Plaintiffs request a ruling on their motion for sanctions,

which was included in the memorandum filed in opposition to Defendant's motion for sanctions (Doc. # 52). Plaintiffs sought sanctions on the grounds that Defendants' motion was frivolous. The basis for Plaintiffs Motion for Sanctions was rejected when the Court granted Defendants' motion, thereby finding that the motion was not frivolous. Additionally, Plaintiffs never complied with the requirements of Fed. R. Civ. P. 11(c)(2) which are 1) that any Rule 11 motion be made separate from any other motion, and 2) that the parties against whom sanctions are sought be given 21 days to withdraw the offending pleading. Accordingly, Plaintiffs' motion was not properly before the Court. Plaintiffs are denied sanctions for this reason as well.

4. Sanctions

Finally, the present application was filed after Plaintiffs' Counsel Nina R. Ringgold was expressly admonished to carefully consider the propriety of future filings in the Court's January 23, 2013 Order.

A federal district court has the inherent power to sanction attorneys appearing before it. Fink v. Gomez, 239 F.3d 989, 992 (9th Cir. 2001). Sanctions may be imposed "where an attorney knowingly or recklessly raises a frivolous argument . . . ." for an improper purpose. Id. at 993 (quoting Primus Auto. Fin. Servs., Inc. v. Batarse, 115 F.3d 644, 648 (9th Cir.1997)).

The present application for ex parte relief is almost entirely based on theories and arguments that the Court considered and rejected in its January 23, 2013 Order, issued just eight days prior to this application. Accordingly, Ms.

Ringgold was aware that another motion based on those theories and arguments would be frivolous. She nevertheless chose to file the present motion seeking to circumvent the Court's prior order and multiply these proceedings without regard to unnecessary burdens created for the Court and Defendants in this matter. The Court therefore finds that the present motion recklessly raised frivolous arguments for an improper purpose. As a result, Plaintiffs' Counsel Nina R. Ringgold is hereby ordered to pay $1,000 in sanctions to the Clerk of Court within 10 days.

ORDER

Plaintiffs' Ex Parte Application is DENIED in its entirety. Plaintiffs' Counsel Nina R. Ringgold is further ordered to pay sanctions in the amount of $1,000 to the Clerk of Court within 10 days for filing the application.

IT IS SO ORDERED.

Dated: February 7, 2013

JOHN A. MENDEZ,
UNITED STATES DISTRICT JUDGE

APPENDIX 15

NINA R. RINGGOLD, ESQ. (SBN (CA) 133735)
LAW OFFICE OF NINA R. RINGGOLD
9420 Reseda Blvd. #361
Northridge, CA 91324
Telephone: (818) 773-2409
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Attorney for Plaintiffs

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

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

Plaintiffs,

v.

JERRY BROWN in his Individual and Official Capacity as Governor of the State of California and in his Individual and Official Capacity as Former Attorney General of the State of California; KAMALA HARRIS in her Individual and Official Capacity as Current Attorney General of the State of California, COMMISSION ON JUDICIAL PERFORMANCE OF THE STATE OF CALIFORNIA as a state agency and constitutional entity, ELAINE HOWLE in her Individual and Official Capacity as California State Auditor and DOES 1-10.

Defendants.

Case No.: 2:12-cv-00717-JAM-JFM

SECOND AMENDED CLASS ACTION COMPLAINT
(Jury Trial Demanded)

CAUSES OF ACTION SPECIFIED IN THE COMPLAINT:

1. **Declaratory, Injunctive, and Equitable Relief (Title 28 U. S. C. § 2201-2202)**
2. **Violation of the Public Trust Doctrine**
3. **Constitutional Vacancy of Office And Special Election In Local Districts Existing Prior to Unification,**
   Declaratory and Equitable, Title 28 U. S. C. § 2201-2202,
   Voting Rights Act Of 1965, As Amended, Fourteenth, and Fifteenth Amendment
4. **Violation of the Political Reform Act**
5. **Title II of ADA, 42 U.S.C. §§ 12131, 12132**
6. **504 of the Rehabilitation Act**
7. **Title 42 U. S. C. §§ 1981, 1982, 1983, 1985, 1986**
8. **Cal. Gov. Code § 11135 et seq.**
9. **Violation of Cal. Govt. Code § 8547 et seq. (Whistleblower Protection Act)**
10. **Violation of Cal. Civil Code § 51, 52**
11. **Violation of Cal. Civil Code § 51.7 & 52**
12. **Violation of Cal. Civil Code § 52.1 & 52**
13. **Violation Cal. Civil Code § 52.3**
14. **Violation Cal. Civil Code § 53 (b)**
15. **Violation Cal. Civil Code § 54, 54.1, 54.3, 55**
16. **Conversion**
17. **Equitable Relief and Imposition of Constructive Trust**
18. **Interference With Prospective Economic Advantage**
19. **Intentional Infliction of Emotional Distress**
20. **Negligent Infliction of Emotional Distress**

Plaintiffs the LAW OFFICES OF NINA RINGGOLD AND ALL CURRENT CLIENTS THEREOF ("Law Office"), and ON BEHALF OF ALL PERSONS SIMILARLY SITUATED IN THE STATE OF CALIFORNIA complain against defendants herein as follows:

JURISDICTION AND VENUE

1. Jurisdiction of this Court over the subject matter of this action is predicated on 28 U.S.C. § 1331. Plaintiffs' claims arise from violation of rights guaranteed under the First, Fifth, Thirteenth, Fourteenth, and Fifteenth Amendment of the United States Constitution and laws of the United States, including but not limited to, the Voting Rights Act of 1965 (42 U.S.C. § 1973 et.seq.)(as amended), Title II of the Americans with Disabilities Act, 504 of the Rehabilitation Act, and Title 42 U.S.C. §§ 1981, 1982, 1983, 1985, and 1986. Given the substantial controversy this court also has jurisdiction to grant the declaratory, injunctive, and equitable relief sought under 28 U.S. C. §§ 2201-2202.

2. Jurisdiction is also predicated on 28 U.S.C. § 1343 (a)(1)-(3) which provides that the district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person:

> (1) To recover damages for injury to his person or property, or because of the deprivation of any right or privilege of a citizen of the United States, by any act done in furtherance of any conspiracy mentioned in section 1985 of Title 42;
>
> (2) To recover damages from any person who fails to prevent or to aid in preventing any wrongs mentioned in section 1985 of Title 42 which he had knowledge were about to occur and power to prevent; or
>
> (3) To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right,

privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States;

3. Supplemental jurisdiction in this court also exists over the state claims asserted herein in that they are so related to the claims within this court's original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.

4. Venue in this district is proper pursuant to 28 U.S.C. § 1391 (a) and (b). All defendants reside in the State of California and this is the district in which defendant Jerry Brown performs his duties and the district in which he resides. Venue is also proper in this district because this is the district with the largest number of state court judgeships in the State of California which are not impacted by the self-effectuating constitutional resignations caused by the receipt of supplemental benefits that were held to be unconstitutional in Sturgeon v. County of Los Angeles, 167 Cal.App.4th 630 (Cal. 2008) ("Sturgeon I"). (See **Exhibit 1** Supplemental Judicial Benefits by Court as of July 1, 2008).[1]

PARTIES

5. Plaintiff Law Offices of Nina Ringgold ("Law Office") conducts business in the State of California through Nina Ringgold as a licensed attorney. All current clients of the Law Office are members of a protected class and persons who have historically have had limited access to the courts in the State of California. Each client of the Law Office has been adversely impacted by the events described in this complaint, including but not limited to incidents of retaliation, penalties, intimidation, harassment for (1) presenting

[1] Historical Analysis of Disparities in Judicial Benefits (December 15, 2009), Appendix D-9

grievances or presenting their viewpoint on matters of public interest, (2) seeking fair and equal access to the court, or (3) due to their association with the Law Office after it asserted federal constitutional claims as addressed herein. Such conduct is in violation of First Amendment rights guaranteed by the United States Constitution and in violation of 18 U.S.C. §245, and the Civil Rights Acts of 1966, 1871, and 1964.

a. In September 2010 Attorney Ringgold had a life threatening medical emergency resulting in a physical disability. Since that time in her capacity as an attorney practicing in the courts of the State of California, she has requested reasonable accommodation consistent with federal and state law and rules of court through the Law Office as to work performed on behalf of clients represented by the Law Office. Plaintiff was formerly the Director of the Mediation Center and Director of Options Counseling of the Western Law Center for Disability Rights at Loyola Law School.

b. All attorneys working for the Law Office have complied with California Business and Professions Code § 6067, which states: "[e]very person on his admission shall take an oath to support the Constitution of the United States and the Constitution of the State of California, and faithfully to discharge the duties of any attorney at law to the best of his knowledge and ability." This complaint is consistent with this requirement.

6. The clients of the Law Office are representative of persons similarly situated in the State of California who have common questions of law and fact regarding the constitutionality a state statute; the need for fair and equal access to the courts by persons operating with valid constitutional authority (and are free from conflicts of interests); the need for disclosure and acknowledgement of self-effectuating constitutional resignations under Article VI § 17 as to the judges operating in the courts of record of the state; the

need for competent, ethical, economical, and efficiently managed public court system (which presently receives federal, state, and local government sources of funding); the need for a special election of a constitutionally formed court; the need for fair notice so that proper governmental claims may be filed; and the need for relief for injuries and damages suffered during an existing unconstitutional condition.

7. Defendant Jerry Brown ("Brown") is currently the Governor of the State of California. As Governor, he is vested with "the supreme executive power" of the State and "shall see that the law is faithfully executed." Cal. Const. art. 5 § 1. Defendant Brown was also the former Attorney General of the State of California during various events at issue in this complaint. He was the "chief law officer" of the State and had the duty to "see that the laws of the State were uniformly and adequately enforced." Cal. Const. art. 5, § 13. Additionally, former Attorney General Brown had "direct supervision over every district attorney" in the State. *Id.* If, at any point a district attorney of the State fails to enforce adequately "any law of the State," the Attorney General must "prosecute any violations of the law." *Id.* Finally, the Attorney General "shall assist any district attorney in the discharge" of duties when "required by the public interest or directed by the Governor…" *Id.* The former Governor prior to Brown was Arnold Schwarzenegger.

8. Defendant Kamala Harris ("Harris") is the current Attorney General of the State of California. She is the "chief law officer" of the State and has the duty to "see that the laws of the State are uniformly and adequately enforced." Cal. Const. art. 5, § 13. Additionally, Attorney General Harris has "direct supervision over every district attorney" in the State. *Id.* If, at any point a district attorney of the State fails to enforce adequately "any law of the State," the Attorney General must "prosecute any violations of the law." *Id.* Finally, the Attorney General "Shall assist any district attorney in the

discharge" of duties when "required by the public interest or directed by the Governor…" *Id.*

9. Defendant Commission on Judicial Performance is an independent state agency charged with investigating complaints of judicial misconduct and judicial incapacity and for disciplining judges. Its jurisdiction includes all judges of the state superior courts and the justices of the Court of Appeal and Supreme Court. Cal. Const. art. 6 § 18 (d). "The Commission on Judicial Performance consists of one judge of a court of appeal, and two judges of superior courts, each appointed by the Supreme Court; two members of the State Bar of California who have practiced law in this State for 10 years, each appointed by the Governor; and six citizens who are not judges, retired judges, or members of the State Bar of California, two of whom shall be appointed by the Governor, two by the Senate Committee on Rules, and two by the Speaker of the Assembly." Cal. Cons. Art. 6 § 8 (a). The California Constitution does not permit the Legislature to restrict the constitutional scope of the commission's authority. Nevertheless, Section 5 of Senate Bill SBX2 11, usurps and restricts the constitutional scope of the authority of the Commission on Judicial Performance to the detriment of the plaintiffs and the citizens of the State of California.

10. Defendant Elaine Howle ("Howle") is the State Auditor of the State of California. California Government Code § 8543 creates the Bureau of State Audits which is "to be free of organizational impairments to independence" and is therefore "independent of the executive branch and legislative control". Its audits are required to be in conformity with Government Auditing Standards published by the Comptroller General of the United States and the standards published by the American Institute of Certified Public Accountants. The State Auditor administers the California

Whistleblower Protection Act and the auditor is required to investigate and report improper governmental activities. (California Government Code §§ 8547, 8547.5). Plaintiffs have reported improper governmental activities and were retaliated against and severely penalized. Plaintiffs again report such conduct and report such conduct to Howle by this complaint. Plaintiffs seek protection pursuant to statutory authority. The State Auditor identifies its mission as promoting "the efficient and effective management of public funds and programs by providing citizens and government independent, objective, accurate, and timely evaluations of state and local governments' activities". (http://bsa.ca.gov/aboutus/mission). Howle may conduct performance audits, financial audits, and investigations of every office or department of the executive and judicial branch of the state government.

11. There is a constitutional conflict and dispute between state and local agencies and the Commission on Judicial Performance which prohibit the plaintiffs and citizens of the State of California from taking action to preserve their legal and constitutional rights and which prohibit plaintiffs from effectively exercising their constitutional function as electors in judicial elections. The California Constitution reserves all rights and powers as to judicial elections to the people of the State of California. See Bearden v. Collins, 220 Cal. 759, 762 (Cal. 1934), Lundgren v. Davis, 234 Cal.App.3d 806, 814 (Cal. 1991). The judges receiving supplemental benefits deemed unconstitutional are paid as both employees of the state and the county. There has been self-effectuating constitutional resignations giving rise to the need for a special judicial election, the legal remedy available for constitutional injury is unclear. In addition to a special judicial election plaintiffs seek legal and equitable remedies due to constitutional injury. Plaintiffs contend it is not a reasonable proposition for this matter to be resolved by litigation

against each judge for that normally would be a function of the State Attorney General. However, the State Attorney General's Office has a conflict in that it currently and in the past has represented judges and government entities subject to the constitutional challenge and the judges and government entities that benefit from the retroactive immunity provision of section 5 of SBX2 11. This conflict is further compounded by the fact that the current Governor was the former attorney general and also represented judges and government entities subject to constitutional challenge. Therefore, plaintiffs allege herein, that by failing to enforce the law and the constitution, and failing to respond from 2009 to present to the request for opinion of the Commission on Judicial Performance, the Governor and the State Attorney General stand in the shoes of the judges causing the constitutional injuries and damages. Plaintiffs, who are persons who cannot effectively protect their own legal rights and claims, assert that the claims are effectively assigned temporarily to the Governor and Attorney General as public trustees of a vital public resource – the public courthouses in the County of Los Angeles and operations therein. For the purposes of pleading and statutory interpretation, pending a declaratory determination by this court and the appointment of special counsel as public trustee as requested herein, the Governor and Attorney General should be treated as temporary public trustees responsible for the public trust (the public courthouses and operations therein) and responsible for the damages caused by state employees and government entities who are given immunity under section 5 of SBX2 11; responsible for the persons (employees) who have caused a vacancy in judicial office; and responsible for the constitutional injuries and damages incurred. Plaintiffs therefore request that this court allow leave to amend this complaint, as necessary, to add as a party any person or

entity that relates to this complaint and to add any claim or bifurcate any claim pled herein.

12. Plaintiffs bring this action on their own behalf and on behalf of a class of all persons similarly situated pursuant to Rules 23 (a) and 23 (b)(2). Plaintiff class consists of all United States citizens who are members of a protected class who now or in the future will have cases in the Superior Court and did not and have not received disclosure that the person handling their case and identified as a judge has been impacted by a self-effectuating constitutional resignation and that said "judge" directly benefits from the retroactive immunity provision of section 5 of SBX2 11. The class also includes those impacted by the lack of a proper grievance procedure which complies with state and federal law, the lack of efficient and economical operation of the Superior Court, the direct or indirect effect of the immunity provision of section 5 of SBX2 11, and by penalties for attempting to lodge grievances concerning the operation and administration of the Superior Court (including but not limited to through CCP § 391.7).

13. The plaintiff class satisfies all of the prerequisites of Rule 23 (a)

(a) Many United States citizens who are members of a protected class have unreasonably been deprived of notice that persons presiding over cases in the state trial courts have been deemed County officials and are receiving supplemental benefits in contradiction to Article VI § 17 of the California Constitution and of notice of the retroactive immunity provision of section 5 of SBX2 11. Moreover, the state court has not maintained a proper or adequate grievance process which is essential to continued funding by the state and federal government. Instead, it has implemented procedures (including but not limited through CCP § 391.7) as a penalty, and form of viewpoint

discrimination, and retaliation in violation of the First Amendment of the United States Constitution. The class is numerous and joinder of all members is impracticable.

(b) There are questions of law and fact common to the class, including whether the challenged practices violate the First, Fifth, Thirteenth, Fourteenth, and Fifteenth Amendment of the United States Constitution and state and federal law, whether there has been a self-effectuating constitutional resignation under California Constitution Article VI § 17 and need for special election, and whether section 5 of SBX2 11 is unconstitutional.

(c) Plaintiffs are all members of a protected class and their claims are typical of the claims of the class because such persons have filed claims or asserted grievances, and/or they are associated with persons seeking institutional reform, and/or had pending constitutional and/or federal claims prior to publication of Sturgeon I and the enactment of section 5 of SBX2 11.

(d) Plaintiffs will fairly and adequately represent the interest of the class and have no interests antagonistic to the class. They seek declaratory and injunctive relief on behalf of the entire class and such relief will benefit all members of the class.

14. The class satisfies Rule 23 (b)(2) because the defendants have engaged in a course of conduct common as to all members of the class, and final declaratory and injunctive relief in favor of the class is therefore appropriate.

GOVERNMENT CLAIM

15. To the extent applicable, plaintiffs timely filed claims and this action including as to claims that may be covered under the California Government Claims Act. Attached hereto as **Exhibit 2** is copy of an example of a Government Claim Form submitted to government entities purportedly covered by section 5 of SBX2 11 filed (i.e. claims

submitted to the California Victim Compensation and Government Claims Board and the County of Los Angeles). Attached hereto as **Exhibit 3** is a copy of an example of the notice of rejection of the claim filed by the Law Office. Plaintiffs have timely filed this complaint following denial of government claims. The claims were timely filed and they are representative of those persons in the class and satisfy the requirement for said class. See Harris v. County of Orange, 682 F.3d 1126, 1136 (9th Cir 2012).

CALIFORNIA CONSTITUTION, ARTICLE VI, § 17
VERSUS
SECTION 5 OF SENATE BILL X2 11 ("SBX2 11")

16. Senate Bill SBX2 11 chaptered on February 20, 2009 is attached hereto as **Exhibit 4.** Section 5 of SBX2 11 which is not published in the California Government Code states as follows:

> "*Notwithstanding any other law*, no governmental entity, or officer or employee of a governmental entity, shall incur any liability or be subject to prosecution or disciplinary action because of benefits provided to a judge under the official action of a governmental entity prior to the effective date of this act on the ground that those benefits were not authorized by law." (Emphasis added)

17. Section 5 of Senate Bill X2 11 purports to grant retroactive immunity notwithstanding the United States Constitution or federal law, and in disregard of whether the relief sought by the aggrieved person is under the United States Constitution or federal law, and it purports to amend or revise the California Constitution without the required constitutional procedures.[2]

[2] See Legislature v. Eu, 54 Cal.3d 592, 506 (Cal. 1991).

18. Plaintiffs on behalf of themselves and those similarly situated bring this action, in part, based on 42 U.S.C. § 1983 seeking declaratory and injunctive relief against enforcement of section 5 of Senate Bill SBX2 11 introduced to the California State Legislature by Senator Steinberg on February 11, 2009. **(Exhibit 4).**

19. California Constitution Article VI § 17 prohibits judges from accepting public employment or office. See also Abbott v. McNutt, 218 Cal. 225 (Cal. 1933); Alex v. County of Los Angeles, 35 Cal.App.3d 994 (Cal. 1973); and Cal. Attorney General Opn 83-607 , 66 Cal. Attorney General 440. California Article VI § 17 states:

> "SEC. 17. A judge of a court of record may not practice law and during the term for which the judge was selected *is ineligible for public employment or public office* other than judicial employment or judicial office, except a judge of a court of record may accept a part-time teaching position that is outside the normal hours of his or her judicial position and that does not interfere with the regular performance of his or her judicial duties while holding office. A judge of a trial court of record may, however, become eligible for election to other public office by taking a leave of absence without pay prior to filing a declaration of candidacy. *Acceptance of the public office is a resignation from the office of judge.*
>
> A judicial officer may not receive fines or fees for personal use.
>
> A judicial officer may not earn retirement service credit from a public teaching position

20. On October 10, 2008 the California Court of Appeal for the Fourth Appellate District in Sturgeon v. County of Los Angeles, 167 Cal.App.4th 630 (Cal. 2008) ("Sturgeon I") held that the compensation which the County of Los Angeles had been paying the judges of the Superior Court of the County of Los Angeles was unconstitutional under Article VI § 19 of the California Constitution.

21. Article VI § 19 of the California Constitution states as follows:

> "SEC. 19. The Legislature shall prescribe compensation for judges of courts of record.
>
> A judge of a court of record may not receive the salary for the judicial office held by the judge while any cause before the judge remains pending and undetermined for 90 days after it has been submitted for decision."

22. Sturgeon I found that as of January 1, 2007 that the California Legislature had set salaries of superior court judges at $172,000 and that additional, supplemental benefits paid by the County raised that compensation by $46,346, or approximately 27 %, to $218,346 in 2007. Sturgeon I at 635-636. Sturgeon also expressly found that the judges of the Superior Court of the County of Los Angeles were treated as salaried employees of the County. Id. at 635.

23. After Sturgeon I was decided SBX2 11 was enacted by emergency legislation on February 20, 2009. Section 5 of SBX2 11 contains the above referenced provision which grants retroactive immunity to governmental entities, officers, employees for conditions determined by Sturgeon I to be unconstitutional.

24. Plaintiffs and others similarly situated were adversely impacted during the periods in which the unconstitutional condition has existed. Plaintiffs will suffer irreparable harm because they will be unable to recover damages based on claims of immunity including but not limited to those asserted under Section 5 of SBX2 11. See California Pharmacists Ass'n v. Maxwell-Jolly, 563 F.3d 847, 851-852 (2009)(plaintiffs irreparably harmed and entitled to injunctive relief when they demonstrate they would be unable to recover damages due to claims of immunity). This includes but is not limited to

claims for return of private property taken in proceedings by persons acting in an absence of jurisdiction (due to self-effectuating constitutional resignations) which are outside the purview of Eleventh Amendment immunity. See Taylor v. Westly, 402 F.3d 924 (9th Cir. 2005), Malone v. Bowdin, 369 U.S. 643 (1962), United States v. Lee, 106 U.S. 196 (1882). To the extent the state was providing funds for the operation of the Superior Court through a method of segregated funds (i.e. to the California Judicial Council or the Administrative Office of the Courts) the Eleventh Amendment is also not a bar. See Hess v. Port Authority Trans-Hudson Corp., 513 U.S. 30, 47 (1994), Brown v. Porcher, 660 F.2d 1001, 1006-1007 (4th Cir. 1981).

25. There was a subsequent decision decided December 28, 2010 entitled Sturgeon v. County of Los Angeles, 191 Cal.App.4th 344 (Cal. 2010) (Sturgeon II). However, the state court in Sturgeon II completely omits reference to the retroactive immunity provision of Section 5 of SBX2 11.

26. At the time of commencement of each plaintiff's case and this case, California Government Code § 29320 provided that officers of the county include the Superior Court and any modification is not retroactive. California Code of Civil Procedure § 38 states that a judicial district as it relates to the Superior Court means the County. Liability for nonperformance or malperformance of County Officers (including judges of the Superior Court) attaches to the official bond of the officer and the premium is paid for by the County and not the state. Cal. Govt. Code § § 1505, 1651.

27. Sturgeon I confirms that judges of the Superior Court are County employees and California Government Code § 29320 confirmed that officers of the county include the superior court. Therefore, under both California constitutional and statutory authority

there was an automatic resignation of judges during the period in which plaintiffs were harmed.

28. During the period of injuries to plaintiffs there was a constitutional resignation of judges and an unconstitutional condition existed under Sturgeon I.

29. The 1997 Lockyer-Isenberg Trial Court Funding Act was hailed as a method to provide consistent and stable funding for the state trial courts. However, it was known at the time the unification statute was implemented that it would dilute minority voting power in the judicial election procedures and lessen the likelihood of achieving the goal of diversity in the judiciary (to reflect California's population). See **Exhibit 6,** California Law Revision Commission, Staff Memorandum 95-79 (Trial Court Unification: Voting Rights Act) ("…[U]nder Section 2 [of the Voting Rights Act] in large counties, such as…Los Angeles…conversion of a municipal court judgeship to a superior court judgeship may deprive minority voters of representation by diluting their voting strength. While a minority group may have sufficient cohesiveness and numbers to elect a municipal court judgment in a municipal court district, the group may not be numerous enough on a countywide basis to elect a superior court judge. Vote dilution may also occur if conversion of a judgeship results in municipal court redistricting."). Counties have recently claimed that the unconstitutional supplemental compensation to judges was "necessary" to recruit "qualified" minority judges, when in fact the supplemental compensation was designed to maintain an insider group and at the same time dilute the voting strength in minority communities. The unconstitutional supplemental compensation and unification statute was designed to maintain a discriminatory system of exclusion of qualified minority judges and limit the development of a more inclusive and diverse judiciary. In 2011 approximate 73.6 % of the state judiciary was White, 5.2%

African American, and 7.5% Latino as compared to 40.1%, 6.2%, and 37.6% of the respective groups in the population in the State of California in the same year.

30. On April 3, 2009 and May 23, 2011 the Commission on Judicial Performance provided an opinion to Brown that SBX2 11 was unconstitutional.

31. The April 3, 2009 opinion of the Commission on Judicial Performance sent to former Attorney General Brown stated:

> "The commission understands that judges in a number of courts receive supplemental compensation, and the value of the supplemental compensation varies between courts. In Los Angeles County, the county contributes 19 percent of the judge's salaries to a MegaFlex Cafeteria Benefit Plan. The judges either spend it on medical, dental or vision coverage, or life and disability insurance (all in addition to the salary and benefits provided to them by the state.). Any portion of the county's contribution that is not used to purchase such benefits is paid to the judges as taxable income. The county also matches the judge's 401k contributions up to four percent of salary. In the fiscal year 2007, each judge was eligible to receive $46,436 in supplemental compensation from the county, representing 27 percent of his or her salary prescribed by the Legislature, at a cost to the county of $21 million. *Sturgeon*, 167 Cal.App.4th at 635-636… Judges in some counties receive nothing."….
>
> "There were no public hearings on SB 11. It was inserted into the Budget Act of 2008 at the last minute on February 14, 2008, and passed the same day."

32. As to the authority to enact legislation purporting to preclude the Commission from disciplining judges for authorizing supplemental compensation to be paid to themselves from public funds, and/or receiving that supplemental compensation Director and Chief Counsel of the Commission stated:

> "The commission concludes that the Legislature does not have this authority, and section 5 of SBX2 11 is invalid and unconstitutional as a violation of the separation of powers principle. Cal. Const., art II, § 33. Under article VI, section 18 of the

Constitution, the commission and the California Supreme Court have exclusive authority over judicial discipline.”..

“There is a conflict between the grant of immunity in section 5 of SB 11 and the commission’s constitutional authority to discipline judges….There is nothing in the Constitution that permits the Legislature to restrict the constitutional scope of the commission’s authority over judicial discipline.”…

“…[W]e have located nothing in the legislative history of SBX2 11 that meets the standard of *Evangelatos*, 44 Cal.3d at 1209 (in the absence of an express retroactivity provision it must be ‘very clear from extrinsic sources that the Legislature… must have intended a retroactive application’).”

“There are two Attorney General opinions on the Legislature’s nondelegable duty to prescribe judges’ compensation that appear relevant to whether the Legislature has adequately prescribed the supplemental compensation purportedly authorized by SB 11.”

“Most clearly with respect to the unrestricted cash payments judges are receiving, it does not appear that simply attaching the label ‘benefit’ to the payment could legitimately convert it into something other than an impermissible payment of enhanced judicial salary. Judges are entitled to these cash and ‘cash-in-lieu’ payments simply by virtue of holding the office of judge, and receive the money regardless of the quantity or quality of work performed. These types of cash benefits appear to be ‘salary’, as commonly defined. As stated in People ex rel. Lockyer v. Pacific Gaming Technologies (2000) 82 Cal.App.4th 699, 701 & fn 1, ‘if it looks like a duck, and sounds like a duck, it is a duck’…..” Id.

33. The treatment of judges as County employees and officials is not authorized by the constitutional revision approved by the people of the State of California or through the required constitutional procedures to revise or amend the California Constitution. Moreover, the Commission and elected officials cannot engage discussion of matters of such constitutional significance in secret. Plaintiffs reject the notion that state agencies,

constitutional entities, councils, commissions, auditors, elected or appointed officials, constitutionally resigned judges, and persons holding positions of public trust can or should be allowed to prevent the this action for relief; continue to operate in secrecy; continue to be unaccountable financially and ethically to the people; or continue with acts of retaliation and coercion against members of the public including attorneys representing clients who legitimately attempt to question the jurisdiction, authority, fiscal responsibility, and total inability to legitimately and fairly address grievances (including but not limited to matters of institutional discrimination). Plaintiffs contend that the people have a right to control the entities and instruments they have created and seek a to special election to restore public trust to the State of California and implement a truly diverse judiciary which reflects the population of the state. California Government Code § 54590 mandates as follows:

> "In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly. [¶] The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created."

34. The May 23, 2011 opinion sent to Attorney General Harris states:

"Although the supplemental compensation in Los Angeles was authorized by the county, judges in other counties have authorized supplemental compensation for themselves from court funds without any action by legislative body."

35. No municipal authority, state agency, or other person has the prerogative to disregard the constitution adopted by the people of the State of California or attempt to nullify the United States Constitution and federal law. Although California Government Code § 68070 allows a court to make rules for its own government a court and judges of the courts of record are statutorily prohibited from giving any allowance to any officer for services. Cal. Govt. Code § 68070 (a)(1). Also, California Code of Civil Procedure § 410.10 prohibits a court from exercising jurisdiction in a manner inconsistent with the California Constitution or United States Constitution.

36. The Office of the State Attorney General as early as 1983 provided an opinion consistent with plaintiffs' claims in this complaint. California State Attorney General's Opinion 83-607, 66 Cal. Attorney General 440 (Nov. 1983) states that California Constitution Article VI § 17 prohibits public employment and office of a Superior Court judge even before expiration of his/her term of office. See also Alex v. County of Los Angeles, 35 Cal.App.3d 994 (Cal. 1973).

37. The fact that the proceedings are being conducted without a valid or authorized judicial function in accord with the California Constitution should be disclosed to the litigants and they should be afforded an opportunity to decline to participate in the unconstitutional condition. Rooney v. Vermont Investment Corporation, 10 Cal.3d 351 (Cal. 1973), People v. Tijerina, 1 Cal.3d 41 (Cal. 1969). Currently in the courts where there exist supplemental payments by the county without constitutional authority leads to a private organization functioning and housed in facilities owned and operated by the state. It would be one thing if this was a theoretical exercise, however, citizens who have been forced to participate in this unconstitutional enterprise (without disclosure or consent) are being deprived equal protection, due process, and fair proceedings consistent with the

law. Section 5 of SBX2 11 is claiming to provide retroactive immunity (even for claims under federal law and the United States Constitution). There have been overwhelming number of grievances arising the Superior Court. This is not just about budget matters but rather involve existing and severe constitutional structural problems that deprive litigants of meaningful and fair access to the court and the right to elect a judiciary which reflects the population. Various departments have a direct economic stake in cases i.e. operation of the probate department (including through attorney fees, estate administration fees), and other fees.[3] Plaintiffs have or have had cases pending in various areas of the state court.

38. Plaintiffs and persons similarly situated have raised legitimate grievances including but not limited to failure to comply with the Limited English Proficiency Plan and access to court interpreters (i.e. necessary for federal funding), discrimination, and ADA compliance. They have legitimately raised grievances essential to fair operation of a publically funded court (i.e. availability and payment to court reporters, the amount and nature of filing fees, processing of appeals, and handling of case and records management). However, the Superior Court does not have a functioning grievance and has formed of culture of either "total disregard of the grievance" or "retaliation or viewpoint discrimination" as the method to silence grievances.

[3] See In re Estate of Claeyssen, 161 Cal.App.4th 465 (Cal. 2008) (holding that probate department graduated filings fees as a percentage of estate was unconstitutional).

RETALITATION AND DISCRIMINATION IN THE STATE COURT

California Code of Civil Procedure § 391.7 And Recent Legislative Modification

39. On July 1, 2011 a segment of the California Vexatious Litigant Statute, CCP § 391.7 was modified to allow a justice of an appellate court to bar an appeal by imposition of a pre-filing order. Also, for the first time in the statute's history there is a method to be removed from the vexatious litigant list maintained by the California Judicial Council. **(Exhibit 5).** Plaintiffs assert facial and as applied challenges this segment of the state statute. Also, plaintiffs on behalf of themselves and those similarly situated bring this action, in part, based on 42 U.S.C. § 1983 seeking declaratory and injunctive relief against enforcement of CCP § 391.7 as applied in the first instance in a state appellate court without the mandatory statutory due process motion in the trial court, as applied to persons acting in a representative capacity (i.e. attorneys, trustees, executors, guardians, conservators), as applied to persons who are not appearing in propria persona and are represented by an attorney, and as applied to persons (including litigants, witnesses, and attorneys) that are requesting an accommodation for disability.

40. Plaintiffs that are involved in cases concerning private trusts or estates have a constitutionally protected legal and property interests in the persons designated as owning the intangible property right in the power of appointment and discretion. Said plaintiffs have a direct property interest in the named trustees or executors specified in the trust instrument or will maintaining (1) the legal right to act in legal proceedings in a representative capacity, and (2) the power to control and dispose of property under the express terms of the trust instrument or will. Said plaintiffs are harmed by policies which

allows property to be taken or disposed of without the mandatorily required bond or inadequate bond and by proceedings conducted without notice.

41. A named trustee or executor acting in a representative capacity may only appear in a legal proceeding through an attorney. See Ziegler v. Nickel (1998) 64 Cal.App.4th 545. An attorney is not a party in the proceedings and also acts in a representative capacity. The California Vexatious Litigant Statute does not apply to persons who are not appearing in a court proceeding in propria persona or to their attorneys of record.

42. In essential to the right of economic mobility is the right to pass wealth to a younger generation of heirs. A 2005 Los Angeles Times investigative Series *Guardians for Profit* became to report substantial grievances arising in the probate department of the state court. Unaware of the other grievances the Law Office filed a verified constitutional rights violation petition. As a penalty and form of viewpoint discrimination in violation of the First Amendment CCP § 391.7 has been applied to clients of the law office although no motion had ever been filed by a defendant in accord with the mandatory statutory procedures and the clients were represented by an attorney. The Law Office later discovered a Probate Task Force had been formed and the verified petition asserting federal claims was not consistent with the recommendations and positions taken by the Probate Task Force. See Tumey v. State of Ohio, 273 U.S. 510, 534 (1927). Much later the Law Office discovered that the state court trial judge and appellate justice involved in the case were members of the Probate Task Force. Each client in the Law Office involved in proceedings in the probate department was then deemed or treated as though they had been determined to be vexatious litigants, when this had never taken place.

43. Plaintiffs have been treated and/or deemed "vexatious" in pending litigation irrespective of whether their case arising from the probate department of the state court.

By using this blacklisting and blacklisting by association, and despite the fact that no statutory due process motion to determine vexatious litigant status has been filed in the state trial court and/or the plaintiff is not appearing in propria persona, plaintiffs have been subjected to having their filings barred or delayed or subjected to penalties as a form of viewpoint discrimination. (i.e. (1) dispositive evidence relating to case sealed and not allowed to be used in contested proceedings, (2) court filings sent to a different court, (3) property liquidated without bond and without notice, (4) default judgment refused although entry necessary for access to property and to fund a trust for education expenses and to provide for vulnerable persons, (5) references of court proceedings sent an outside vendor despite the inability to pay of each party, (6) orders made specifying that litigant could not be represented by an attorney through limited scope representation (although allowed by law and the only method by which the person could afford legal representation), and (7) denial of physical access to proceedings.)

44. CCP § 391.7 is not applicable to persons who are not appearing in a legal proceeding propria persona.

45. CCP § 391.1 states:

> "In any litigation pending in any court of this state, at any time until final judgment is entered, a defendant may move the court, upon notice and hearing, for an order requiring the plaintiff to furnish security. The motion must be based upon the ground, and supported by a showing, that the plaintiff is a vexatious litigant and that there is not a reasonable probability that he will prevail in the litigation against the moving defendant"

46. CCP § 391.7, as recently amended, in part states:

> "391.7. (a) In addition to any other relief provided in this title, the court may, on its own motion or the motion of any party, enter a prefiling order which prohibits a vexatious litigant from filing any new litigation in the courts of this state in propria persona without first obtaining leave of the presiding justice or presiding judge of the court where the litigation is proposed to be filed. Disobedience of the order by a vexatious litigant may be punished as a contempt of court.
>
> (b) The presiding justice or presiding judge shall permit the filing of that litigation only if it appears that the litigation has merit and has not been filed for the purposes of harassment or delay. The presiding justice or presiding judge may condition the filing of the litigation upon the furnishing of security for the benefit of the defendants as provided in Section 391.3." (Emphasis added to show statutory revisions)

47. CCP § 391.7 presumes that a vexatious litigant determination has already been made. (….the court may, on its own motion or the motion of any other party, enter a prefiling order which prohibits *a vexatious litigant* from…). In other words, it presumes that a due process motion has already taken place in the trial court. This process provides a right of appellate review.

48. When a defendant seeks to require a plaintiff to post security under CCP § 391.1 he has the burden to establish the requirements of the statute. Under CCP § 391.7 a presiding judge may condition the filing of litigation upon the furnishing of security for the benefit of a defendant only in the manner specified in CCP § 391.3. CCP § 391.3 only allows posting of security after hearing on evidence of a motion under CCP § 391.1. So again, application of CCP § 391.7 is based on a statutory due process motion taking place in the trial court.

49. For a single justice of the state appellate court to render a determination of whether an appeal has merit and has been filed for purposes of harassment or delay when

no statutory due process motion has been filed under CCP § 391.7 (b) violates both sections 3 and 14 of Article VI of the California Constitution.

Article VI, section 3 states:

> "The Legislature shall divide the State into districts each containing a court of appeal with one or more divisions. Each division consists of a presiding justice and 2 or more associate justices. It has the power of a court of appeal and shall conduct itself as a 3-judge court. Concurrence of 2 judges present at the argument is necessary for a judgment."

Two qualified justices are necessary to render a decision on the merits in the Court of Appeal. People v. Castellano (1978) 79 Cal.App.3d 844, 862. Permitting the merits of a pending or future appeal to be resolved directly or indirectly by the presiding justice alone violates or impairs this constitutional requirement. Article VI, section 14 of the California Constitution requires that "[d]ecisions of the Supreme Court and courts of appeal that determine causes shall be in writing with reasons stated."

50. Seeking an accommodation for disability does not involve the merits of an action. Plaintiffs have been adversely impacted by imposition of a pre-filing requirement under CCP § 391.7 in order for the Law Office and the legal representative to seek an accommodation for disability. Plaintiffs alleged that this requirement was devised to impair their First Amendment rights (including right of association, and viewpoint discrimination), to limit the legal issues which could be raised, and to intentionally cause undue prejudice in pending proceedings.

51. Plaintiffs contend that CCP § 391.7 is being applied as a penalty and form of coercion and viewpoint discrimination for raising legitimate grievances concerning discrimination and operation of the Superior Court of the County of Los Angeles; claiming discriminatory operation of the various departments; claiming that disclosure

and consent was required following the Sturgeon I decision; and for seeking a special judicial election in compliance with the Voting Rights Act of 1965.

FIRST CAUSE OF ACTION
Declaratory, Injunctive Relief, Equitable
Title 28 U. S. C. § 2201-2202
(Against All Defendants)

52. Plaintiffs refer to and incorporate, as though set forth herein in full, paragraphs 1 through 51 above.

53. There is an actual controversy within this court's jurisdiction in which the plaintiffs require immediate declaration of the rights, legal duties, and legal relations, duties and obligations (1) with respect to the constitutionality of section 5 of SBX2 11 in light of the express requirements of the California and United States Constitution; (2) with respect to the procedure for notification to the public, procedures for persons who consent or decline to consent to proceed before a judge subject to constitutional resignation; (3) with respect to the grievance procedures in the state court, (4) with respect to monitoring and fiscal accountability of the Superior Court; (5) with respect to the determination of the methods and procedures of special judicial election given the self-effectuating constitutional resignations; (6) with respect to whether litigants in current and future proceedings in the Superior Court must receive disclosure and provide written consent before any adjudication takes place; and (7) with respect to method of the application and enforcement of CCP § 391.7.

54. Plaintiffs request all necessary or proper declaratory, injunctive, and equitable relief to restore their property interest and protect their legal rights. Plaintiffs request that the court order injunctive relief to prohibit the continuing divestment of property of the

plaintiffs.

55. Plaintiffs request that due to the conflicts of interest of the office of the attorney general, state agencies, and municipalities who have disregarded the mandate of California Constitution Article VI § 17 that this court provide declaratory and equitable relief including but not limited to:

a. Appoint counsel special counsel (from the office of the Inspector General) or other counsel acceptable to plaintiffs to act as public trustee in lieu of the office of the California Attorney General due to unwaivable and irreconcilable conflicts of interest that is currently harming the people of the State of California on the issue of section 5 of SBX2 11, the methods to resolve self-effectuating constitutional resignations, and the methods to restore fiscal and ethical accountability to the people of the State of California, and to monitor the special election in compliance with the Voting Rights Act of 1965 as amended.

b. Establish procedures and monitor judicial special elections which meet the requirements of the Voting Rights Act of 1965 as amended and does not dilute minority voting in the municipal districts.

c. Establish and monitor grievance procedures in the Superior Court.

56. Plaintiffs also further request declaratory and equitable relief by requiring defendant Howle to conduct a performance, financial, and investigative audit of the Superior courts impacted by self-effectuating resignations with input by plaintiffs and that this report be provided to plaintiffs. Plaintiffs request that there be investigation as to the probate department of the Los Angeles Superior Court which includes fees which are paid to court adjuncts that exceed the statutory limits allowed by law, methods of handling bonding requirement, publication of notice, method of case management

procedures to distinguish between private inter vivos trust and administration of decedent's estates, and other matters. Plaintiffs also request that there be an investigation as to the method of handling court reporter, interpreter, and ADA services.

57. Plaintiffs request that this court direct defendants to establish a grievance procedure (including with respect to ADA requests, civil appeals, court reporter's department, interpreter services, an other matters) that is transparent and allows input from the public and the plaintiffs and a method of monitoring the grievance procedure.

58. As a direct and proximate result of defendants' conduct, plaintiffs request that this court grant their request for declaratory, injunctive and equitable relief and for all relief as prayed herein.

59. Plaintiffs have or will incur attorney's fees, expert fees, and costs and seek an award in an amount according to proof. The request for fees includes but is not limited to fees under the Civil Rights Attorney Fees Awards Act of 1976 (42 U.S.C § 1988).

60. In addition plaintiffs request relief as prayed herein.

SECOND CAUSE OF ACTION
Violation of Public Trust Doctrine
(All defendants)

61. Plaintiffs refer to and incorporate, as though set forth herein in full, paragraphs 1 through 60 above.

62. Defendants as public officials and agencies occupying positions of public trust and they stand in a fiduciary relationship to the people who they have been elected or appointed to serve.

63. If a public trust is to have any meaning or vitality, the members of the public who are the beneficiaries of that trust must have the right and standing to enforce it.

64. A public courthouse accessible to the people, operating in a fiscally responsible and ethical manner in accord with the requirements of the California and United States Constitution is a public resource – part of the public trust – and essential to a free and democratic society. Defendants as trustees of a public trust have failed to protect the public beneficiaries (the people of the State of California) with respect to the public trust. Defendants have disregarded that public resources have been used for private or individual gain (against the constitutional requirements) and at the same time have disregarded their constitutional duty or have conflicts which impair their constitutional dues.

65. There are irreconcilable conflicts and grievances and complaints of the public lodged with the office of the defendants and gone unanswered.

66. The Attorney General has not released any opinion as requested by the Commission on Judicial Performance on April 3, 2009 and May 23, 2011.

67. The Commission of Judicial Performance has failed to make its requests for legal opinion by the California Attorney General accessible to the public or take any action.

68. Defendants cannot dispose of unique public resources in a way that the publics' access is substantially impaired.

69. The operation of functions of the public trust by municipalities and payment of supplemental benefits (particularly in the court departments where the municipality has a direct economic interest) impairs the public trust, public access, and functions for its own benefit and the financial gain of private interests of private parties.

70. Defendants have alienated the trust property and it is now necessary for this court to order and direct defendants to take affirmative action to restore the trust property to the people of the State of California. As relief plaintiffs request, in part that this court:

a. Establish, require posting and monitoring of the implementation of a grievance procedure in the Superior Court which meets the requirements of state and federal law (including a policy which prohibits retaliation for reporting discrimination or seeking an accommodation for disability).

b. Order the California Commission on Judicial Performance to make is opinions dated April 3, 2009 and May 23, 2011 available to the public by posting the opinions on its public website.

c. Appoint special counsel to respond to the request for legal opinion of the California Commission on Judicial Performance, to independently obtain and make all public responses available to the public, and to render a responsive legal opinion which is to be post on the public websites of the Commission on Judicial Performance, the California Attorney General, and the United States District Court; and disqualify the Office of the California Attorney General from rendering an opinion based on unwaivable conflicts of interest and failure to provide a responsive legal opinion from 2009 to 2013.

d. Order State Auditor Elaine Howle the State Auditor to conduct an investigation as to the courts impacted by self-effectuating resignation.

71. As a direct and proximate result of its conduct, plaintiffs have suffered and will continue to suffer damages including economic and compensatory, in an amount according to proof.

72. As a direct and proximate result of its conduct, plaintiffs have or will incur attorney's fees, expert fees, and costs and seek an award in an amount according to proof.

73. Plaintiffs seek declaratory and injunctive relief against these defendants.

Plaintiffs seek the restitution and to provide information and training and legal services in the underrepresented communities and that portion of the funds from the Sargent Shriver Civil Counsel Act or the California Community Services Block Grant Program be made

74. In addition plaintiffs request relief as prayed herein.

THIRD CAUSE OF ACTION
Constitutional Vacancy of Office And Special Election
In Local Districts Existing Prior to Unification
Declaratory and Equitable, Title 28 U. S. C. § 2201-2202
Voting Rights Act Of 1965, As Amended,
Fourteenth and Fifteenth Amendment
(Against Brown and Harris and in their Capacity as Temporary Public Trustees [Pending Appointment By District Court])

75. Plaintiffs refer to and incorporate, as though set forth herein in full, paragraphs 1 through 74 above.

76. Plaintiff Ali Tazhibi and other plaintiffs are registered voters in the State of California and they bring this cause of action on behalf of themselves and all persons similarly situated.

77. Upon acceptance of public employment and office of a judge of a court of record there is an immediate and automatic resignation. Plaintiffs are not required to move for judicial disqualification or to bring an action quo warranto because the California Constitution provides an express remedy by immediately effectuating a constitutional vacancy of office. Therefore, under the present circumstance there is no person "holding judicial office" in the Superior Court of the County of Los Angeles or need to remove or take any proceeding. There is a need for disclosure to the people and declaration of the existing condition. Plaintiffs are not required to bring an action against each judge of

record sitting in the individual courthouses in the County of Los Angeles. Article VI § 17 of the California Constitution mandates an automatic vacancy.

78. Plaintiffs seek a declaration of constitutional vacancy of judicial office and that a three judge court be appointed to set forth the procedures which comply with the Voting Rights Act of 1965 as amended, the Fourteenth, and Fifteenth Amendment for a special election to be held in the local municipal district which existed prior to the unification procedures which diminished the voting rights of racial and language minority voters in the County of Los Angeles.

79. Under CCP § 803 an action quo warranto action may be filed as follows:

> "An action may be brought by the attorney-general, in the name of the people of this state, upon his own information, or upon a complaint of a private party, against any person who usurps, intrudes into, or unlawfully holds or exercises any public office…. And the attorney-general must bring the action, whenever he has reason to believe that any such office or franchise has been usurped, intruded into, or unlawfully held or exercised by any person, or when he is directed to do so by the governor."

80. The vacancies have not been acted upon because of a conflict of interest of the constitutionally elected officers, municipalities, and persons receiving the payments; due to the failure to notify the public; and due to the failure to institute procedures for a special election or filling the vacancy.

81. Because of this conflict of interest plaintiffs contend that Brown and Harris should only function as temporary public trustees as to the procedures for the special election or filing vacancies pending appointment of public trustee by this court (from the office of the Inspector General).

82. Plaintiffs seek declaratory and equitable relief under 28 U.S.C. 2201-2202 for violation of their rights under Voting Rights Act of 1965 as amended, the Fourteenth Amendment, and the Fifteenth Amendment. Plaintiff seek a declaration that there shall be a special judicial election and that any future judicial election in the County of Los Angeles shall proceed in the municipal districts which existed prior to statutory unification. Under the totality of the circumstances the unification procedures were designed to undermine the voting strength of racial and language minorities. **Exhibit 6** is the staff memorandum 95-79 dated December 4, 1995, of the California Law Revision Commission demonstrating advance knowledge of the substantial likelihood that the trial court unification statute could violate the Voting Rights Act.

83. As a direct and proximate result of defendants' conduct, plaintiffs request that this court grant their request for declaratory, injunctive and equitable relief and for all relief as prayed herein.

84. Plaintiffs have or will incur attorney's fees, expert fees, and costs and seek an award in an amount according to proof. The request for fees includes but is not limited to fees under the Civil Rights Attorney Fees Awards Act of 1976 (42 U.S.C § 1988).

85. In addition plaintiffs request relief as prayed herein.

FOURTH CAUSE OF ACTION
Political Reform Act
Declaratory and Equitable
Title 28 U. S. C. § 2201-2202
(Against Brown and Harris and in their Capacity as Temporary Public Trustees [Pending Appointment By District Court])

86. Plaintiffs refer to and incorporate, as though set forth herein in full, paragraphs 1 through 85 above.

87. Prior to filing this complaint plaintiffs filed a written request for the civil

prosecutor of the Fair Political Practices Commission to commence an action. The commission declined to pursue action by letter dated March 30, 2012. Plaintiffs timely filed this action thereafter.

88. Under the Political Reform Act the interpretation of the statute and the definitions therein must be consistent with the context. Plaintiffs contend that the applicable context is the existing condition of self-effectuating constitutional resignations. Therefore, the statute must be interpreted consistent with the California Constitution and its purpose of having persons in elected or appointed office performing their duties in an impartial manner frees from bias or their own financial interests or the financial interest of persons who have supported them. Judges and commissioners are required to file statements of economic interest with the Fair Political Practices Commission. Cal. Govt. Code § 87500 (i).

89. The only way that members of the public could be aware of the supplemental payments deemed unconstitutional under Sturgeon I would be by voluntary disclosure or filing of a public statement of economic interest under the Political Reform Act. See Cal. Govt. Code § 81008.

90. Under the Political Reform Act the conflict of interest provisions apply to public officials. California Government Code § 82048 (b)(1) excludes a judge or court commissioner as a public official but includes judges of the courts of record as elective officers or elected state officers. However, on the effective date of a self- effectuating constitutional resignation under Article VI § 17 of the California Constitution all judges of the courts of record who had accepted public employment and office immediately ceased to function as judges and had not been assigned duties as commissioners (which requires disclosure and written consent of the litigants). Plaintiffs contend at the point of self-

effectuating constitutional resignation and in any future special election there must be compliance with the conflict of interest and disclosure provisions of the Political Reform Act. Also, they further contend, that at the point of the Sturgeon I decision, under California Government Code § 29320 officers of the county included the Superior Court and there was self-effectuating constitutional resignations as County officers.

91. Under California Government Code § 82030 (b)(2) income is defined as not including "salary and reimbursement for expenses or per diem" or "benefit payments received from a state, local…agency". Under California Government Code § 87200 et seq. judges and commissioners as candidates for office are required to file a statement disclosure his investments, interests in real property, and any income received during the immediately preceding 12 months. See also Cal. Govt. Code § 84200 et. seq (campaign statements)

92. Plaintiff seek all applicable statutory penalties and fines under California Government Code § 91000 et seq. and that such statutory penalties and fines be paid for the benefit of the plaintiff class.

93. Plaintiffs have been injured and will continue to suffer injuries and damages and requests declaratory and injunctive relief. Plaintiffs have or will incur attorney's fees, expert fees, and costs and seek an award in an amount according to proof. The request for fees includes but is not limited to fees under the Civil Rights Attorney Fees Awards Act of 1976 (42 U.S.C § 1988).

94. In addition plaintiffs request relief as prayed herein.

FIFTH CAUSE OF ACTION
Title II of the Americans with Disabilities Act ("ADA")
42 U. S. C. § 12131, 12132
(All Defendants, Except the Commission)
Also Against Brown and Harris and in their Capacity as Temporary Public Trustees [Pending Appointment By District Court])

95. Plaintiffs refer to and incorporate, as though set forth herein in full, paragraphs 1 through 94 above.

96. The courts of the State of California are public entities under 42 U.S.C § 12131.

97. Attorney Nina Ringgold is a qualified individual with a disability who, without or without reasonable modification to rules, policies, or practices, meets the essential eligibility requires for receipt of services or the participation in programs and services of the state courts as an attorney acting on behalf of clients where she practices her profession. She is an attorney of the Law Office and represents the client plaintiffs.

98. Plaintiffs were discriminated against within the meaning of 42 U.S.C. § 12132 by being denied the benefits of services, programs, or activities through their attorney who has a disability and this includes but is not limited to:

a. Intentionally being denied telephonic access to the court including when six non-disabled attorneys were allowed telephonic access on the same day.

b. Being denied reasonable modification of rules and policies.

c. Being denied access to proceedings in a retaliatory manner.

d. Having confidential information regarding the disability posted on the court's website.

e. Being charged for fees for the accommodation requests.

f. Being burden with undue and unwarranted administrative obstacles

g. By the court's failure or refusal to follow its own ADA procedure specified in

the California Rules of Court.

h. Being subjected to a prefiling requirement in order to request an accommodation.

i. Requiring motions to be filed in order to request an accommodation when the rules of court identify a confidential nonjudicial procedure then having sanctions imposed for requesting an accommodation

j. By the various courts failing to have an ADA coordinator available as stated is available in the rules of court.

k. By denying requests for accommodation to effectively participate in the proceeding.

l. By the failure to rule on the requests for accommodation which conformed to the requirements of the rules of court.

99. The ADA Coordinator in the Central District of the Los Angeles Superior Court which probably services the largest population of persons with disabilities confirmed that the sole function was to handle equipment and was unable to address any of the requests for accommodation to obtain access to the court. The alleged ADA Coordinator was located in the facilities department and indicated that if the accommodation was not for assistive listening devices or equipment he was unable to discuss the needed accommodation.

100. Each court did not have a grievance procedure or persons designated to oversee Title II compliance. (See Title II Technical Assistance Manual II-8.1000).

101. Plaintiffs have been injured and will continue to suffer injuries and damages and requests declaratory and injunctive relief. Plaintiffs have or will incur attorney's fees, expert fees, and costs and seek an award in an amount according to proof. The request

for fees includes but is not limited to fees under the Civil Rights Attorney Fees Awards Act of 1976 (42 U.S.C § 1988).

102. In addition plaintiffs request relief as prayed herein.

SIXTH CAUSE OF ACTION
504 of the Rehabilitation Act
(All Defendants, Except the Commission)
Also Against Brown and Harris and in their Capacity as Temporary Public Trustees [Pending Appointment By District Court])

103. Plaintiffs refer to and incorporate, as though set forth herein in full, paragraphs 1 through 102 above.

104. Attorney Nina Ringgold is a qualified person with a disability as specified above.

105. The State of California receives substantial federal funds under the American Recovery and Reinvestment Act. This act is intended to modernize the nation's infrastructure and to protect those greatest in need. It also receives other sources of federal funds. A portion of those funds are used for equipment and other needs to provide access to the courts whether criminal or civil or for matters pertaining to the administration of justice.

106. Plaintiffs were discriminated against within the meaning of 504 of the Rehabilitation Act by being denied the benefits of services, programs, or activities through their attorney who has a disability and this includes but is not limited to:

a. Intentionally being denied telephonic access to the court including when six non-disabled attorneys were allowed telephonic access on the same day.

b. Being denied reasonable modification of rules and policies.

c. Being denied access to proceedings in a retaliatory manner.

d. Having confidential information regarding the disability posted on the court's website.

e. Being charged for fees for the accommodation requests.

f. Being burden with undue and unwarranted administrative obstacles

g. By the court's failure or refusal to follow its own ADA procedure specified in the California Rules of Court.

h. Being subjected to a prefiling requirement in order to request an accommodation.

i. Requiring motions to be filed in order to request an accommodation when the rules of court identify a confidential nonjudicial procedure then having sanctions imposed for requesting an accommodation

j. By the various courts failing to have an ADA coordinator available as stated is available in the rules of court.

k. By denying requests for accommodation to effectively participate in the proceeding.

l. By the failure to rule on the requests for accommodation which conformed to the requirements of the rules of court.

107. The ADA Coordinator in the Central District of the Los Angeles Superior Court which probably services the largest population of persons with disabilities confirmed that the sole function was to handle equipment and was unable to address any of the requests for accommodation to obtain access to the court. The alleged ADA Coordinator was located in the facilities department and indicated that if the accommodation was not for assistive listening devices or equipment he was unable to discuss the needed accommodation.

108. Each court did not have a grievance procedure or persons designated to oversee Title II compliance. (See Title II Technical Assistance Manual II-8.1000). Plaintiffs were discriminated against within the meaning of 42 U.S.C. § 12132 by being denied the benefits of services, programs, or activities this includes but is not limited to:

a. Intentionally being denied telephonic access to the court including when six non-disabled attorneys were allowed telephonic access on the same day.

b. Being denied reasonable modification of rules and policies.

c. Being denied access to proceedings in a retaliatory manner.

d. Having confidential information regarding the disability posted on the court's website.

e. Being charged for fees for the accommodation requests.

f. Being burden with undue and unwarranted administrative obstacles

g. By the court's failure or refusal to follow its own ADA procedure specified in the California Rules of Court.

h. Being subjected to a prefiling requirement in order to request an accommodation.

i. Requiring motions to be filed in order to request an accommodation when the rules of court identify a confidential nonjudicial procedure then having sanctions imposed for requesting an accommodation

j. By the various courts failing to have an ADA coordinator available as stated is available in the rules of court.

k. By denying requests for accommodation to effectively participate in the proceeding.

l. By the failure to rule on the requests for accommodation which conformed to

the requirements of the rules of court.

109. The ADA Coordinator in the Central District of the Los Angeles Superior Court which probably services the largest population of persons with disabilities confirmed that the sole function was to handle equipment and was unable to address any of the requests for accommodation to obtain access to the court. The alleged ADA Coordinator was located in the facilities department and indicated that if the accommodation was not for assistive listening devices or equipment he was unable to discuss the needed accommodation.

110. Each court did not have a grievance procedure or persons designated to oversee Title II compliance. (See Title II Technical Assistance Manual II-8.1000).

111. Plaintiffs have been injured and will continue to suffer injuries and damages and requests declaratory and injunctive relief. Plaintiffs have or will incur attorney's fees, expert fees, and costs and seek an award in an amount according to proof. The request for fees includes but is not limited to fees under the Civil Rights Attorney Fees Awards Act of 1976 (42 U.S.C § 1988).

112. In addition plaintiffs request relief as prayed herein.

SEVENTH CAUSE OF ACTION
Title 42 U.S.C. §§ 1981, 1982, 1983, 1985, 1986
(All Defendants)
Also Against Brown and Harris and in their Capacity as Temporary Public Trustees [Pending Appointment By District Court])

TITLE 42 U.S.C. § 1981
Thirteenth and Fourteenth Amendment

113. Plaintiffs refer to and incorporate, as though set forth herein in full, paragraphs 1 through 112 above.

114. All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

115. By imposition of the prefiling requirement on the clients of the Law Office when said clients had never been determined to be vexatious litigants was to prohibit the plaintiffs making and enforcing contracts for legal services comparable to white citizens.

116. By imposition of prefiling requirement on non-white clients who were litigants in valid and proper pending litigation to prohibit them from protecting their legal rights, from presenting evidence, and from the full and equal benefit of the law as enjoyed by white citizens.

117. By holding judicial elections in a manner which diluted the voting strength of racial and language minorities, by not disclosing that this would be the likely outcome of trial court unification, and by not disclosing that the adverse impact on voting rights (as evident by reports of the California Law Revision Commission).

118. By excessively using references of court proceedings to outside vendors in a manner which undermines access to a publically funded court.

119. As a direct and proximate result of its conduct, plaintiffs have suffered and will continue to suffer damages including economic and compensatory, in an amount according to proof.

120. As a direct and proximate result of its conduct, plaintiffs have or will incur attorney's fees, expert fees, and costs and seek an award in an amount according to proof. The request for fees includes but is not limited to fees under the Civil Rights Attorney Fees Awards Act of 1976 (42 U.S.C § 1988).

121. Defendants' acts were malicious and were willful and oppressive and justify an award of punitive damages according to proof particularly in light of the fact that they are charge with the obligation to protect the public.

122. Plaintiffs seeks declaratory and injunctive relief against these defendants.

123. In addition plaintiffs request relief as prayed herein.

TITLE 42 U.S.C. § 1982
Thirteenth and Fourteenth Amendment

124. Plaintiffs refer to and incorporate, as though set forth herein in full, paragraphs 1 through 123 above.

125. All citizens of the United States have the same right as enjoyed by white citizens to inherit, purchase, lease, sell, hold, and convey real and personal property. Defendants were aware of the substantial grievances made by racial and language minorities and members of a protected class and the community at large concerning the discriminatory conduct, rules, policies, and practices in the Superior Court of the County of Los Angeles probate department and other departments (i.e., ADA compliance, civil appeals unit,

court reporter services unit). Defendants were also aware that there was not sufficient information available to the public concerning the internal administrative operation of the Superior Court of the County of Los Angeles in order to determine the proper method to pursue relief by legal action against the proper entities. In addition, defendants acted to conceal the retroactive immunities provision of SBX211, in part because they were aware of the grievances of the public which had been made about the operation and funding of the Superior Court of the County of Los Angeles and that each judicial officer and court of record had a direct pecuniary interest cases in the probate department. See Tumey *supra*. The retroactive immunity provisions of SBX2 11 has substantial impact on racial and language minorities and members of a protected class because they are the portion of the public substantially harmed by the rules, customs, and policies in the Superior Court of the County of Los Angeles and its various departments.

126. There is no rational basis for exclusion of the retroactive immunity provisions of SBX2 11 from being published in the California Government Code given its substantial impact on the general public.

127. The plain language of the California Constitution prohibits judges from accepting public employment and being county officials and defendants are charged with the duty to understand and enforce the California Constitution.

128. The history of section 42 U.S.C. § 1982 unequivocally expresses an intent to abrogate the states sovereign immunity. Also, the congressional intent is unequivocally framed as an unqualified guarantee of racial equality in the right to inherit property.

129. Section 1982 derived from the Civil Rights Act of 1866. Section § 1983 had its roots in the Ku Klux Klan Act of 1871 which was passed as a means to enforce the provisions of the Fourteenth Amendment. "In contrast to the reach of the Thirteenth

Amendment, the Fourteenth Amendment has only limited applicability, the commands of the Fourteenth Amendment are addressed only to the State or to those acting under color of its authority." District of Columbia v. Carter, 409 U.S. 418, 423 (1974). Section 1 of the Ku Klux Klan Act of 1871 was to provide a remedy against those who representing a State in some capacity or acting under color of state law were unable or unwilling to enforce state law and violating the civil rights of others and at the time of enactment there did not exist general federal question jurisdiction. Id. at 426-428.

130. Plaintiffs with cases in the probate department are harmed by the manner of handling the bonding requirement, conduct of proceedings without subject matter jurisdiction, conduct of proceedings without constitutionally required notice, methods of divestment of the constitutionally protected intangible property right in the power of appointment and discretion of named trustees and executors, and by use of de facto administration of decedent estates and special administration (without notice or bond) to prohibit members of a protected class from ownership of property.

131. To the extent 42 U.S.C. § 1982 is interpreted as not providing a direct remedy then plaintiffs seek to enforce 42 U.S.C. § 1982 under 42 U.S.C. § 1983.

132. As a direct and proximate result of its conduct, plaintiffs have suffered and will continue to suffer damages including economic and compensatory, in an amount according to proof.

133. As a direct and proximate result of its conduct, plaintiffs have or will incur attorney's fees, expert fees, and costs and seek an award in an amount according to proof. The request for fees includes but is not limited to fees under the Civil Rights Attorney Fees Awards Act of 1976 (42 U.S.C § 1988).

134. Defendant's acts were malicious and were willful and oppressive and justify an

award of punitive damages according to proof particularly in light of the fact that they are charge with the obligation to protect the public. There could be no legitimate public interest in attempting to provide retroactive immunity even to actions maintained under the United States Constitution and federal law.

135. Plaintiffs seek declaratory and injunctive relief against these defendants.

136. In addition plaintiffs request relief as prayed herein.

TITLE 42 U. S. C. § 1983, CIVIL RIGHTS ACT OF 1871

137. Plaintiffs refer to and incorporate, as though set forth herein in full, paragraphs 1 through 136 above.

United States Constitution –Fourteenth Amendment
(Equal Protection)

138. There is neither a rational basis for nor a compelling state interest in differential compensation between state trial court judges based on whether the county or court in which they sit pays supplemental benefits particularly when the supplemental benefits paid by County were declared to be unconstitutional.

139. The California Constitution Article VI § 17 prohibits state court trial judges from acting as County officials or as employees of the County thereby causing a self effectuating resigning of a judge. Any proceeding taking place before the judge as a County employee or official required disclosure and written consent. Therefore the proceedings conducted by such persons are void.

140. The plaintiffs did not receive disclosure, the did not consent, and they will not consent to proceedings before judges in the courts of record who are not acting in accord with California Constitution Article VI § 17. The uncodified section 5 of SBX2 11 is an effort to conceal an unconstitutional condition and avoid the mandatory and

constitutional requirement of disclosure and consent. It is an effort to nullify the role of the electorate and the Commission on Judicial Performance in the California constitutional framework.

141. Because plaintiffs object to the nullification of the constitutional framework they have subjected to unequal treatment in court proceedings.

142. Plaintiffs have been barred access to the court, evidence, and legal representation. They have been subjected to discriminatory criteria and qualifications.

143. Plaintiffs have been deprived of fair access, equal protection, and due process by application of California Code of Civil Procedure § 391.7 without the required due process motion filed by a defendant or hearing in state trial court which would, at minimum, allow a right of appeal.

United States Constitution - First and Fourteenth Amendment
(Freedom of Expression)

144. Plaintiffs have been deprived their constitutional rights under the First Amendment of the United States Constitution by conduct including but not limited to:

a. Suffering penalties and deprivation of property for expressing their viewpoint of matters of public debate, making grievances and asserting right of free speech.

b. Suffering penalties or obstacles that impair their associational interests in violation of the First Amendment. See Perry v. Schwarzenegger, 591 F.3d 1147, 1154, 1159 (9th Cir. 2010)("effective advocacy of both public and private points of view, particularly controversial ones, in undeniably enhanced by group association"), NAACP v. Alabama, 357 U.S. 449, 460 (1958), NAACP v. Button, 371 U.S. 415 (1963), NAACP v. Patterson, 357

U.S. 449 (1958), Moss v. U.S. Secret Service, 675 F.3d 1213 (9th Cir. 2012) (viewpoint discrimination).

c. Suffering penalties for exercising their first amendment rights as to the need for disclosure and consent, a special judicial election, and declaration of constitutional vacancies of office.

d. Suffering penalties for raising grievances about court proceedings.

e. Suffering penalties and retaliation as a form of viewpoint discrimination due to grievances or legal positions asserted by the Law Office.

United States Constitution Fifth Amendment
(Deprivation of Property Without Due Process of Law and Taking of Property without Just Compensation)

145. Plaintiffs have been deprived their constitutional rights under the Fifth Amendment of the United States Constitution by conduct including but not limited to:

a. By being deprived of both liberty and property without due process of law and for taking of property without just compensation.

b. By being deprived of property in court proceedings in which there was not disclosure and consent to proceed before a judge who is subject to constitutional resignation.

c. By having legal claims impaired by conduct including but not limited to sealing evidence, failing to require a bond when mandated by law, failing to give notice, barring access to the court, failing to provide an accommodation, limiting access to property or ability to protect property, and failing to comply with federal consent orders or judgments.

d. As to proceedings in the probate department, by being subjected to divestment of the intangible property right in the power of appointment and discretion

when there did not exist jurisdiction or constitutional authority.

e. By being deprived of access to the court under California Code of Civil Procedure § 391-391.7 without any hearing or motion being filed by a defendant in the trial court.

e. By refusing reasonable accommodation for disability under California Rule of Court Rule 1.100 to allow access to the court and to legal representation.

f. By not affording due process according to express constitutional, statutory, or common law authority within the State of California.

g. By failing to provide adequate notice of the proceedings prior to divestment of liberty and property interests.

146. For the foregoing reasons, and others, section 5 of SBX211 and CCP§ 391.7 as applied in the first instance in a state appellate court and to persons who are represented by an attorney is unconstitutional under the United States Constitution. These statutes cause plaintiffs and those similarly situated to be subjected to the deprivations of rights, privileges, and immunities secured to them by the Constitution and laws of the United States. Therefore, these statutory provisions of the State of California constitute a deprivation of rights actionable under 42 U.S.C. § 1983.

147. Plaintiffs have been injured and will continue to suffer injuries and damages and requests declaratory and injunctive relief. Plaintiffs have or will incur attorney's fees, expert fees, and costs and seek an award in an amount according to proof. The request for fees includes but is not limited to fees under the Civil Rights Attorney Fees Awards Act of 1976 (42 U.S.C § 1988).

TITLE 42 U.S.C. § 1985

148. Plaintiffs refer to and incorporate, as though set forth herein in full, paragraphs 1 through 147 above.

149. Defendants obstructed justice by conspiring with local governments and others to allow the unconstitutional supplemental benefits to be made without adequate state supervision and control; without consideration that a constitutional amendment was required; and without consideration that the citizens of the State of California overwhelmingly supported an voted to adopt Article VI § 17 of the California Constitution. They also obstructed justice by conspiring to use section 5 of SBX2 11 to conceal and avoid enforcement of the mandatory requirement of disclosure and consent by litigants in court proceedings. Also, defendants obstructed justice by allowing the California Judicial Council Probate Task Force to attempt to function as a legislative entity with respect to the large number of grievances arising in the probate department and at the same time failing to take any action with respect to the grievances.

150. Any person that attempts to raise a legitimate constitutional issue and question concerning the impact of section 5 of SBX2 11 or the operation of the state court is submitted to threats, intimidation, and violence to their person and property. This is despite the fact that State Auditor Elaine Howle reported that the administrative office of the courts had wasted approximately $1.9 billion in a failed statewide case management system. On the same day this action was filed (March 21, 2012) the Superior Court of the County of Los Angeles entered an emergency resolution temporarily suspending operation of its local rules. Two month later this court suspended local rules with respect to court reporter availability and now 10 courthouses are set to be closed by June 2013.

There exist legitimate basis for grievances and the conspiracy and conflicts described herein combined with the retaliation and blacklisting are intended to prohibit viewpoints of the persons who are significantly harmed.

151. Because there have been complaints lodged with the state attorney general and other law enforcement agencies, the defendants' non-action supports the continued conspiracy, threats, intimidation, and violence to person and property. The Office of the State Attorney General, prior to this action, was provided with the client plaintiff declaration of ASAP Copy and Print and Ali Tazhibi and information concerning other plaintiff clients in this complaint. Nevertheless, they continued in the pattern of non-action to support the intimidation and continued conspiracy.

152. As a direct and proximate result of its conduct, plaintiffs have suffered and will continue to suffer damages including economic and compensatory, in an amount according to proof.

153. As a direct and proximate result of its conduct, plaintiffs have or will incur attorney's fees, expert fees, and costs and seek an award in an amount according to proof. The request for fees includes but is not limited to fees under the Civil Rights Attorney Fees Awards Act of 1976 (42 U.S.C § 1988).

154. Defendants' acts were malicious and were willful and oppressive and justify an award of punitive damages according to proof particularly in light of the fact that they are charge with the obligation to protect the public. There could be no legitimate public interest in attempting to provide retroactive immunity even to actions maintained under the United States Constitution and federal law.

155. Plaintiffs seeks declaratory and injunctive relief against these defendants.

156. In addition plaintiffs request relief as prayed herein.

TITLE 42 U.S.C. § 1986

157. Plaintiffs refer to and incorporate, as though set forth herein in full, paragraphs 1 through 156 above.

158. Defendants knew and were in a position to know the acts specified above and had the power to prevent or aid in the prevention of such conduct and refused to do so.

159. As a direct and proximate result of its conduct, plaintiffs have suffered and will continue to suffer damages including economic and compensatory, in an amount according to proof.

160. As a direct and proximate result of its conduct, plaintiffs have or will incur attorney's fees, expert fees, and costs and seek an award in an amount according to proof. The request for fees includes but is not limited to fees under the Civil Rights Attorney Fees Awards Act of 1976 (42 U.S.C § 1988).

161. Defendants' acts were malicious and were willful and oppressive and justify an award of punitive damages according to proof particularly in light of the fact that they are charge with the obligation to protect the public. There could be no legitimate public interest in attempting to provide retroactive immunity even to actions maintained under the United States Constitution and federal law.

162. Plaintiffs seeks declaratory and injunctive relief against these defendants.

163. In addition plaintiffs request relief as prayed herein.

EIGHTH CAUSE OF ACTION
California Government Code § 11135 et seq.
(All Defendants, Except the Commission)

164. Plaintiffs refer to and incorporate, as though set forth herein in full, paragraphs 1 through 163 above.

165. Plaintiffs have been denied full and equal access to proceedings, programs, activities, and services provided by or conducted in the Los Angeles Superior Court of the County of Los Angeles. Plaintiffs have been subjected to discrimination on the basis of race, national origin, and/or disability in the manner and method in which the programs and activities of the state court (receiving state funding) conducts its affairs. Plaintiffs have been discriminated on the basis of race, national origin and/or disability. The discrimination is systemic and pervasive covering various related departments essential to meaningful and fair access to the court.

166. The courts receive funds from the county, state, and federal government and the state operates the programs and activities at issue.

167. As a direct and proximate result of its conduct, plaintiffs have suffered and will continue to suffer damages including economic and compensatory, in an amount according to proof.

168. As a direct and proximate result of its conduct, plaintiffs have or will incur attorney's fees, expert fees, and costs and seek an award in an amount according to proof.

169. Defendants' acts were reckless or with a callous indifference to the state and federally protected rights of the plaintiffs. Also, defendants' acts were malicious and were willful and oppressive and justify an award of punitive damages according to proof particularly in light of the fact that they are charge with the obligation to protect the public.

170. Plaintiffs seek declaratory and injunctive relief against these defendants.

171. Plaintiffs seek the restitution and to provide information and training and legal services in the underrepresented communities that portion of the funds from the Sargent Shriver Civil Counsel Act or the California Community Services Block Grant Program be made available.

172. In addition plaintiffs request relief as prayed herein.

NINTH CAUSE OF ACTION
Cal. Govt. Code § 8547 et seq.
Whistleblower Protection Act
(All Defendants, Except the Commission)
Also Against Brown and Harris and in their Capacity as Temporary Public Trustees [Pending Appointment By District Court])

173. Plaintiffs refer to and incorporate, as though set forth herein in full, paragraphs 1 through 172 above.

174. The State of California receives substantial federal funds under the American Recovery and Reinvestment Act. This act is intended to modernize the nation's infrastructure and to protect those greatest in need. California as a whole received about $330 billion from the federal government and about one-quarter of these federal funds flow through California's state budget. See Legislative Analyst's Office, California Economy, Cal. Facts: 2012 p. 6.

175. California Attorneys are covered by the Whistleblower Protection Act. Defendant Howle administers the Whistleblower Protection Act. Under the act an employee means an individual appointed by the Governor, or employed or holding office in a state agency as defined by Section 11000. It also means and a person employed by the Supreme Court, court of appeal, superior court, or administrative office of the courts.

Although attorneys are not employees of the court they are officers of the court and can only appear as such officer through license. Garrison v. McGowan 48 Cal. 592, 595 (1874). Also the California State Supreme Court has held that the State Bar is analogous to a state agency. See Keller v. State Bar of California 47 Cal.3d 1152, 1167(Cal. 1989). Pursuant to California Government Code § 8547.2 the statutory term "employee" includes an individual holding office in a state agency as defined in California Government Code § 11000. (Cal. Govt. Code § 11000 includes every state office, officer, department, and commission.)

176. Defendants were a substantial factor in the harm to plaintiffs.

177. Plaintiffs seek declaratory and injunctive relief against these defendants. As part of the declaratory relief plaintiff seek a declaration that all licensed attorneys in the State of California are protected under the Whistleblower Protection Act. If California Attorneys are not protected under this statute the client plaintiffs are subjected to substantial harm in the form of retaliation and by impairing advocacy on behalf of clients with respect to issues concerning reform and the fair administration of justice in the state.

178. As a direct and proximate result of defendants' conduct, plaintiffs have suffered and will continue to suffer damages including economic and compensatory, in an amount according to proof.

179. Defendants' acts were willful and oppressive and justify an award of punitive damages according to proof.

180. In addition plaintiffs request relief as prayed herein.

TENTH CAUSE OF ACTION
Violation of California Unruh Civil Rights Act
Cal. Civil Code § 51, 52
(Brown, Harris)
Also Against Brown and Harris and in their Capacity as Temporary Public Trustees [Pending Appointment By District Court])

181. Plaintiffs refer to and incorporate, as though set forth herein in full, paragraphs 1 through 180 above.

182. California Civil Code § 51 provides:

> " (b) All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, or sexual orientation are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever."

183. Disability under this provision means any physical disability as defined in California Government Code §§ 12926, 12926.1

184. Defendants, their employees, agencies, affiliates, contractors direct and indirectly aided and allow a condition to exist which denies plaintiffs of full and equal accommodations, advantages, facilities based on sex, race, color, ancestry, national origin, disabilities etc.

185. Defendants, their employees, agencies, affiliates, contractors direct and indirectly aided and allow a condition to exist which denies plaintiffs full and equal accommodations, advantages, facilities based on prohibited factors.

186. Defendants, their employees, agencies, affiliates, contractors direct and indirectly aided and allow a condition to exist which denies the plaintiffs who are all

members of a protected class and persons who generally have limited access to legal resources and representation from full and equal accommodations, advantages, facilities of the courts.

187. Defendants' failure to enforce the law and the constitution fosters discriminatory condition and disparate discriminatory impact to members of a protect class and persons of limited financial means by continued state funding without adequate supervision, monitoring, control, grievance procedure, and compliance with the requirements of the California Constitution.

188. The condition of the operational and constitutional defects in the state court in the County of Los Angeles; taking of private property; lack of grievance procedures, lack of safeguards to prohibit discrimination, misconduct, conflicts of interest; lack of equal access to the court for persons with disabilities; inequitable application of filing fees, court reporter and interpreter services; improper case management and file management; and lack of and ADA Coordinator as specified in Rule 1.100, and conduct described herein and in the government claims filed support the claims under the Unruh Civil Rights Act.

189. The conditions described herein and the failure to enforce the law, acts to abridge the rights afforded by plaintiffs provided by the Unruh Civil Rights Act. See Gibson v. County of Riverside 181 F.Supp. 1057 (C.D. Cal. 2002).

190. Plaintiffs were harmed and defendants' conduct was a substantial factor in causing harm.

191. As a direct and proximate result of defendants' conduct, failure to enforce the law and constitution, and control its employees, plaintiffs have suffered and will continue to suffer damages including economic and compensatory, in an amount according to proof. Plaintiffs also seek declaratory, injunctive, and equitable relief. By this complaint

plaintiffs seek immediate enforcement of the law of the state and the California Constitution.

192. Plaintiffs also seek statutory penalties under California Civil Code § 52 and reasonable attorneys' fees and costs.

193. Defendants' acts were willful and oppressive and justify an award of punitive damages according to proof.

194. In addition plaintiffs request relief as prayed herein.

ELEVENTH CAUSE OF ACTION
Violation of California Ralph Civil Rights Act
Cal. Civil Code § 51.7 & 52
(Brown, Harris)
Also Against Brown and Harris and in their Capacity as Temporary Public Trustees [Pending Appointment By District Court])

195. Plaintiffs refer to and incorporate, as though set forth herein in full, paragraphs 1 through 194 above.

196. California Civil Code § 51.7 provides:

> "(a) All persons within the jurisdiction of this state have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of political affiliation, or on account of any characteristic listed or defined in subdivision (b) or (e) of Section 51, or position in a labor dispute, or because another person perceives them to have one or more of those characteristics. The identification in this subdivision of particular bases of discrimination is illustrative rather than restrictive."

197. Plaintiffs have suffered intimidation and threats of violence to their persons or property by defendants, their employees, agencies, affiliates, contractors for acts including for (association with the Law Office)

198. As a direct and proximate result of defendants' conduct, failure to enforce the law and constitution, and control its employees, plaintiffs have suffered and will continue to suffer damages including economic and compensatory, in an amount according to proof. Plaintiffs also seek declaratory, injunctive, and equitable relief. By this complaint plaintiffs seek immediate enforcement of the law of the state and the California Constitution.

199. Plaintiffs also seek statutory penalties under California Civil Code § 52 and reasonable attorneys' fees and costs.

200. Defendants' acts were willful and oppressive and justify an award of punitive damages according to proof.

201. In addition plaintiffs request relief as prayed herein.

TWELFTH CAUSE OF ACTION
Violation of California Bane Civil Rights Act
Cal. Civil Code § 52.1 & 52
(Brown, Harris)
Also Against Brown and Harris and in their Capacity as Temporary Public Trustees [Pending Appointment By District Court])

202. Plaintiffs refer to and incorporate, as though set forth herein in full, paragraphs 1 through 201 above.

203. California Civil Code § 52.1 prohibits any person(s), whether or not acting under color of law, interferes by threats, intimidation, or coercion, or attempts to interfere by threats, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of the State of California.

204. Plaintiffs have suffered intimidation and threats of violence to their persons or property by defendants, their employees, agencies, affiliates, contractors for acts

including for (association with the Law Office). Plaintiffs have suffered interference with the exercise and enjoyment of rights secured by the California Constitution and laws of the State of California and the United States Constitution or laws of the United States as specified herein. Additionally as to the laws of the United States, the conduct was intended to interfere with rights under Civil Rights Act of 1964 (Title II § 201 (a), 202, 203, 42 U.S.C. 2000a, 2000a-1, 2000a-2, Title VI § 601, 42 U.S.C. §2000d) and 18 U.S.C. § 245.

205. As a direct and proximate result of defendants' conduct, failure to enforce the law and constitution, and control its employees, plaintiffs have suffered and will continue to suffer damages including economic and compensatory, in an amount according to proof. Plaintiffs also seek declaratory, injunctive, and equitable relief. By this complaint plaintiffs seek immediate enforcement of the law of the state and the California Constitution.

206. Plaintiffs also seek statutory penalties under California Civil Code § 52 and reasonable attorneys' fees and costs.

207. Defendants' acts were willful and oppressive and justify an award of punitive damages according to proof.

208. In addition plaintiffs request relief as prayed herein.

THIRTEENTH CAUSE OF ACTION
Violation Cal. Civil Code § 52.3
(Brown, Harris)
Also Against Brown and Harris and in their Capacity as Temporary Public Trustees [Pending Appointment By District Court])

209. Plaintiffs refer to and incorporate, as though set forth herein in full, paragraphs 1 through 208 above.

210. California Civil Code § 52.3 provides:

> "(a) No governmental authority, or agent of a governmental authority, or person acting on behalf of a governmental authority, shall engage in a pattern or practice of conduct by law enforcement officers that deprives any person of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States or by the Constitution or laws of California."

211. Defendants Brown and Harris are the highest law enforcement officers of the State of California. The enforcement of section 5 of SBX2 11 is in conflict with California Constitution Article VI § 17, in derogation of the constitutional authority of the California Commission on Judicial Performance, and in derogation of the rights of the electors of the State of California, and this deprives plaintiffs and the citizens of the State of California of the rights and privileges protected by the Constitution and laws of the United States and the State of California. Because section 5 of SBX2 11 is uncodified by taking no action to attempt to eliminate this provisions and by failing to undertake immediate corrective action, this is a pattern and practice in violation of California Civil Code § 52.3.

212. The rights of plaintiffs and citizens of the State of California, particularly those of underrepresented and indigent communities and vulnerable members of the State of California have been adversely impacted. Because of the constitutional crisis arising in the state there is no reasonable or legitimate way for persons to protect their legal rights or reasonable manner to determine which governmental entities are responsible for the claims and injuries arising in the courts in where there has been a self-effectuating constitutional resignation of judges and to take such action within pertinent limitation periods currently specified in the law.

213. As a direct and proximate result of defendants' conduct, failure to enforce the law and constitution, and control its employees, plaintiffs have suffered and will continue

to suffer damages including economic and compensatory, in an amount according to proof.

214. Plaintiffs also seek declaratory, injunctive, and equitable relief. By this complaint plaintiffs seek immediate enforcement of the law of the state and the California Constitution. Plaintiffs also seek a declaration that the time to file government claims is tolled and that there be a published procedure in which to file government claims.

215. Plaintiffs also seek statutory penalties under California Civil Code § 52 and reasonable attorneys' fees and costs.

216. Defendants' acts were willful and oppressive and justify an award of punitive damages according to proof.

217. In addition plaintiffs request relief as prayed herein.

FOURTEENTH CAUSE OF ACTION
Violation Cal. Civil Code § 53 (b)
(Brown, Harris)
Also Against Brown and Harris and in their Capacity as Temporary Public Trustees [Pending Appointment By District Court])

218. Plaintiffs refer to and incorporate, as though set forth herein in full, paragraphs 1 through 217 above.

219. California Civil Code § 53 (b) provides:

> "(b) Every restriction or prohibition, whether by way of covenant, condition upon use or occupation, or upon transfer of title to real property, which restriction or prohibition directly or indirectly limits the acquisition, use or occupation of that property because of any characteristic listed or defined in subdivision (b) or (e) of Section 51 is void."

220. Plaintiffs, including but not limited to, those engaged in mortgage foreclosure proceedings and/or proceedings in the state probate department have been adversely

impacted by restrictions, limitations, and access to title and ownership of property including but not limited to violation of federal consent orders and judgments and divestment of the constitutional protected property right in the power of appointment and discretion of a named trustee or executor (in proceedings in which there did not exist jurisdiction or notice, and/or the was a lack of mandated bonding requirement).

221. As a direct and proximate result of defendants' conduct, failure to enforce the law and constitution, and control its employees, plaintiffs have suffered and will continue to suffer damages including economic and compensatory, in an amount according to proof.

222. Plaintiffs also seek declaratory, injunctive, and equitable relief. By this complaint plaintiffs seek immediate enforcement of the law of the state and the California Constitution.

223. Plaintiffs also seek statutory penalties under California Civil Code § 52 and reasonable attorneys' fees and costs.

224. Defendants' acts were willful and oppressive and justify an award of punitive damages according to proof.

225. In addition plaintiffs request relief as prayed herein.

FIFTEENTH CAUSE OF ACTION
Violation Cal. Civil Code § 54, 54.1, 54.3, 55
(Brown, Harris)
Also Against Brown and Harris and in their Capacity as Temporary Public Trustees [Pending Appointment By District Court])

226. Plaintiffs refer to and incorporate, as though set forth herein in full, paragraphs 1 through 225 above.

227. California Civil Code § 54 provides that individuals shall have the same right as

the general public to the full and free use of public places. Civil Code § 54.1 provides that they shall also be provided to full and equal access as other members of the general public to telephone facilities and other places to which the general public is invited (including the courts). Any person who denies or interferes with admittance or to enjoyment of the public facilities or interferes with the rights of an individual with a disability under is liable damages.

228. The failure to provide accommodation and interference with telephonic access to the plaintiffs legal representative as an accommodation for a physical disability in order to gain access to the courtroom to represent the client plaintiffs violates Civil Code § 54 and 54.1.

229. As a direct and proximate result of defendants' conduct, failure to enforce the law and constitution, and control its employees, plaintiffs have suffered and will continue to suffer damages including economic and compensatory, in an amount according to proof.

230. Plaintiffs also seek declaratory, injunctive, and equitable relief. By this complaint plaintiffs seek immediate enforcement of the law of the state and the California Constitution.

231. Plaintiffs also seek statutory penalties and reasonable attorneys' fees and costs.

232. Defendants' acts were willful and oppressive and justify an award of punitive damages according to proof.

233. In addition plaintiffs request relief as prayed herein.

SIXTEENTH CAUSE OF ACTION
Conversion
(Brown, Harris)
Also Against Brown and Harris and in their Capacity as Temporary Public Trustees [Pending Appointment By District Court])

234. Plaintiffs refer to and incorporate, as though set forth herein in full, paragraphs 1 through 233 above.

235. Plaintiffs owned or had a right to possession of tangible and intangible property and/or claims and/or evidence. The proceedings conducted without consent by plaintiffs or in a manner inconsistent with the California Constitution deprived plaintiffs of access to property and claims.

236. The defendants' failed to act or to implement reasonable procedures, policies, and procedures relating to , including but not limited, providing disclosure and obtaining litigant consent, prohibiting supplemental compensation to judges which has been deemed unconstitutional, handling and verification of bond of appointees, verifying the existence of jurisdiction or notice, and with respect to managing court reporter services and interpreter services department, and other services essential to fair and equal access to the court.

237. Plaintiffs were harmed by this conduct.

238. Defendants were a substantial factor in the harm to plaintiffs.

239. As a direct and proximate result of defendants' conduct, plaintiffs have suffered and will continue to suffer damages including economic and compensatory, in an amount according to proof.

240. Defendants' acts were willful and oppressive and justify an award of punitive damages according to proof.

241. In addition plaintiffs request relief as prayed herein.

SEVENTEENTH CAUSE OF ACTION
Equitable Relief and Imposition of Constructive Trust
(All Defendants, Except the Commission)
Also Against Brown and Harris and in their Capacity as Temporary Public Trustees [Pending Appointment By District Court])

242. Plaintiffs refer to and incorporate, as though set forth herein in full, paragraphs 1 through 241 above.

243. There is no plain, speedy, or adequate remedy at law. The matters are of broad interest in this district because plaintiffs are being deprived the right to property by the erroneous application of rules, policies, and procedures which do not conform with the rights and privileges protected by the laws of the United States and the State of California and the Constitution of the United States and the State of California.

244. Plaintiffs seek equitable relief, including but not limited to, barring defendants from proceeding and/or continuing in their actions. They also seek a constructive trust should be established in order to recover the losses to suffered by plaintiffs and return of property, monies, or interests wrongfully transferred.

245. As a direct and proximate result of defendants' conduct, plaintiffs have suffered and will continue to suffer damages including economic and compensatory, in an amount according to proof.

246. Defendants' acts were willful and oppressive and justify an award of punitive damages according to proof.

247. In addition plaintiffs request relief as prayed herein.

EIGHTEENTH CAUSE OF ACTION
Interference With Prospective Economic Advantage
(All Defendants, Except the Commission)
Also Against Brown and Harris and in their Capacity as Temporary Public Trustees [Pending Appointment By District Court])

248. Plaintiffs refer to and incorporate, as though set forth herein in full, paragraphs 1 through 247 above.

249. Defendants were aware that a substantial number of citizens, like the plaintiffs, would not consent to proceedings before a judge subject to constitutional resignation and that these citizens had a constitutional right to withhold their consent. Moreover, citizens of a different state have a right to withhold their consent. Defendants interfered with the plaintiffs' prospective economic advantage by concealing section 5 of SBX2 11 and engaging in the conduct described herein.

250. Defendants' conduct was a substantial factor in causing plaintiffs' harm.

251. As a direct and proximate result of defendants' conduct, plaintiffs have suffered and will continue to suffer damages including economic and compensatory, in an amount according to proof.

252. Defendants' acts were willful and oppressive and justify an award of punitive damages according to proof.

253. In addition plaintiffs request relief as prayed herein.

NINTEENTH CAUSE OF ACTION
Intentional Infliction of Emotional Distress
(Brown, Harris)
Also Against Brown and Harris and in their Capacity as Temporary Public Trustees [Pending Appointment By District Court])

254. Plaintiffs refer to and incorporate, as though set forth herein in full, paragraphs 1 through 253 above.

255. Defendants engaged in outrageous conduct. Such conduct was continuous, extreme, intentional, and outrageous and said conduct was done for the purpose of causing plaintiffs to suffer humiliation, mental anguish and emotional distress and was done with wanton and reckless disregard of the probability of causing such distress.

256. As a direct and proximate result of defendants' conduct, plaintiffs have suffered and will continue to suffer damages including economic and compensatory, in an amount according to proof.

257. Defendants' acts were willful and oppressive and justify an award of punitive damages according to proof.

258. In addition plaintiffs request relief as prayed herein.

TWENTIETH CAUSE OF ACTION
Negligent Infliction of Emotional Distress
(Brown, Harris)
Also Against Brown and Harris and in their Capacity as Temporary Public Trustees [Pending Appointment By District Court])

259. Plaintiffs refer to and incorporate, as though set forth herein in full, paragraphs 1 through 258 above.

260. Defendants engaged in conduct with caused plaintiffs to suffer serious emotional distress. The conduct of defendants was negligent and was a substantial factor

in causing plaintiffs serious emotional distress.

261. As a direct and proximate result of defendants' conduct, plaintiffs have suffered and will continue to suffer damages including economic and compensatory, in an amount according to proof.

262. Defendants' acts were willful and oppressive and justify an award of punitive damages according to proof.

263. In addition plaintiffs request relief as prayed herein.

DEMAND FOR JURY TRIAL

Plaintiffs demand a jury trial of all issues so triable.

WHEREFORE, plaintiffs pray for judgment as follows:

A. As to Plaintiff Law Office and all clients thereof

1. For actual, general, compensatory, and consequential damages against Brown and Harris in their capacity as temporary public trustees responsible for a public trust (for damages caused by state employees who have caused a vacancy of office or constitutional injuries or damages) in an amount to be proven at trial;

2 For punitive damages in a sum sufficient to punish and set an example of defendants Brown and Harris in their capacity as temporary public trustees temporary public trustees responsible for a public trust (for damages caused by state employees who have caused a vacancy of office or constitutional injuries or damages)

3. For restitution of all money, property, profits and other benefits and anything of value against Brown and Harris in their capacity as temporary public trustees responsible for a public trust (for damages caused by state employees, agents, affiliates, contractors, who have caused a vacancy of office or constitutional injuries or damages) preceding this lawsuit.

4. For equitable relief against Brown and Harris in their capacity as temporary public trustees responsible for a public trust (for damages caused by state employees, agents, affiliates, adjuncts, appointees, contractors, who have caused a vacancy of office or constitutional injuries or damages).

5. For discharge of all fees and costs or liens of any nature in the proceedings of the plaintiffs.

6. For an injunction as to all pending proceedings involving plaintiffs and as to complete proceedings that those proceedings be deemed void and without disclosure and consent by plaintiffs.

7. For interest at the rate of ten percent (10%) per annum;

8. For all statutory penalties allowed by law;

B. For declaratory, equitable, and injunctive on behalf of plaintiffs and for of all persons similarly situated in the plaintiff class, which shall include but not be limited to:

1. Declare that section 5 of SBX2 11 is unconstitutional and enjoin enforcement of this provision.

2. Declare that the current public employment and office of a judge of a courts of record in the state court causes a self-effectuating constitutional resignation under California Constitution Article VI § 17 creating a vacancy of judicial office.

a. Establish procedures and monitor notification to the public of self-effectuating resignations.

b. Establish procedures for disclosure and written consent of litigants in proceedings in the state court.

c. Appoint special counsel as public trustee due to unwaivable conflicts of interest of the former and current California Attorney General as to the procedures requested.

d. Establish procedures and monitor a special judicial election in the municipal districts that existed before statutory unification of the County of Los Angeles in compliance with the Voting Rights Act of 1965 as amended, the Fourteenth Amendment, and the Fifteenth Amendment.

e. Enforce the disclosure requirements under the Political Reform Act and allocate statutory penalties for the benefit of the plaintiff class.

3. Declare CCP § 391.7 as applied in the first instance in the state appellate court, to persons who are not in propria persona, to persons who are acting as counsel of record or in a fiduciary capacity, or to persons seeking accommodations for disability is unconstitutional.

4. Establish, require posting and monitoring of the implementation of a grievance procedure in the Superior Court which meets the requirements of state and federal law (including a policy which prohibits retaliation for reporting discrimination or seeking an accommodation for disability).

5. Order the California Commission on Judicial Performance to make is opinions dated April 3, 2009 and May 23, 2011 available to the public by posting the opinions on its public website.

6. Appoint special counsel to respond to the request for legal opinion of the California Commission on Judicial Performance, to independently obtain and make all public responses available to the public, and to render a responsive legal opinion which is to be post on the public websites of the Commission on Judicial Performance, the

California Attorney General, and the United States District Court; and disqualify the Office of the California Attorney General from rendering an opinion based on unwaivable conflicts of interest and failure to provide a responsive legal opinion from 2009 to 2013.

7. Order State Auditor Elaine Howle to conduct an investigation as to the courts impacted by self-effectuating resignation.

8. Declare that attorneys of the State of California are entitled to protection of the Whistleblowing Protection Act monitored by the State Auditor Elaine Howle.

9. To provide information and training and legal services in the underrepresented communities and that portion of the funds from the Sargent Shriver Civil Counsel Act or the California Community Services Block Grant Program be provided to the Law Office.

C. For reasonable attorney fees, expert fees, and costs.

D. For such further relief as this Court deems just and proper.

Dated: February 12, 2013

LAW OFFICE OF NINA RINGGOLD

By: s/ Nina R. Ringgold, Esq.
Nina Ringgold, Esq.
Attorney for the Plaintiffs

EXHIBIT 1

Supplemental Judicial Benefits by Court

as of July 1, 2008

County-Funded Benefits

Courts	Authorized Judgeships
FRESNO	44
LOS ANGELES	436
MENDOCINO	8
MONTEREY	20
RIVERSIDE	64
SAN BERNARDINO	78
SAN FRANCISCO	51
SAN MATEO	26
SANTA CLARA	79
TRINITY	2
VENTURA	29
11 courts	**837 Judgeships**

Court-Funded Benefits

Courts	Authorized Judgeships
ALAMEDA	69
BUTTE	12
CALAVERAS	2
GLENN	2
MARIPOSA	2
NAPA	6
NEVADA	6
PLACER	12
SAN BENITO	2
SAN DIEGO	130
SAN JOAQUIN	32
SAN LUIS OBISPO	12
SISKIYOU	4
SOLANO	19
TULARE	20
TUOLUMNE	4
16 courts	**334 Judgeships**

Court- and County-Funded Benefits

Courts	Authorized Judgeships
CONTRA COSTA	38
KERN	38
KINGS	8
MONO	2
ORANGE	112
SACRAMENTO	64
SONOMA	19
YOLO	11
8 courts	**292 Judgeships**

No Supplemental Benefits

Courts	Authorized Judgeships
ALPINE	2
AMADOR	2
COLUSA	2
DEL NORTE	3
EL DORADO	6
HUMBOLDT	7
IMPERIAL	9
INYO	2
LAKE	4
LASSEN	2
MADERA	10
MARIN	10
MERCED	10
MODOC	2
PLUMAS	2
SANTA BARBARA	19
SANTA CRUZ	10
SHASTA	11
SIERRA	2
STANISLAUS	22
SUTTER	5
TEHAMA	4
YUBA	5
23 courts	**151 Judgeships**

EXHIBIT 2

Government Claims Form

California Victim Compensation and Government Claims Board
P.O. Box 3035
Sacramento, CA 95812-3035

1-800-955-0045 • www.governmentclaims.ca.gov

State of California

For Office Use Only
Claim No.:

Is your claim complete?

- ☐ ***New!*** **Include a check or money order for $25 payable to the State of California.**
- ☐ Complete all sections relating to this claim and sign the form. Please print or type all information.
- ☐ Attach receipts, bills, estimates or other documents that back up your claim.
- ☐ Include two copies of this form and all the attached documents with the original.

Claimant Information

1. Shabazz, Karim
   Last name *First Name* *MI*
2. Tel: 818 773 2408
3. Email:
4. 9420 Reseda Blvd #361, Northridge CA 91324
   Mailing Address *City* *State* *Zip*
5. Best time and way to reach you: 9-5, at atty office indicated above
6. Is the claimant under 18? ☐ Yes ☑ No If YES, give date of birth: ☐ ☐ ☐
   MM *DD* *YYYY*

Attorney or Representative Information

7. Ringgold, Nina R.
   Last name *First Name* *MI*
8. Tel: 818 773 2409
9. Email: nrringgold@aol.com
10. 9420 Reseda Blvd. #361 Northridge CA 91324
    Mailing Address *City* *State* *Zip*
11. Relationship to claimant: Attorney

Claim Information

12. Is your claim for a stale-dated warrant (uncashed check) or unredeemed bond? ☐ Yes ☑ No
    State agency that issued the warrant: If NO, continue to Step 13.
    Dollar amount of warrant: Date of issue: ☐ ☐ ☐ (*MM* *DD* *YYYY*)
    Proceed to Step 22.
13. Date of Incident: See Attached
    Was the incident more than six months ago? ☐ Yes ☑ No
    If YES, did you attach a separate sheet with an explanation for the late filing? ☐ Yes ☐ No
14. State agencies or employees against whom this claim is filed:
    See Attached
15. Dollar amount of claim:
    If the amount is more than $10,000, indicate the type of civil case: 4,500,000
    ☐ Limited civil case ($25,000 or less)
    ☑ Non-limited civil case (over $25,000)
    Explain how you calculated the amount:
    See Attached

16 Location of the incident:
See Attached

17 Describe the specific damage or injury:
See Attached

18 Explain the circumstances that led to the damage or injury:
See Attached

19 Explain why you believe the state is responsible for the damage or injury:
See Attached

20 Does the claim involve a state vehicle? ☐ Yes ☑ No
If YES, provide the vehicle license number, if known:

Auto Insurance Information

21 *Name of Insurance Carrier*

Mailing Address | *City* | *State* | *Zip*

Policy Number: | Tel:
Are you the registered owner of the vehicle? ☐ Yes ☐ No
If NO, state name of owner:
Has a claim been filed with your insurance carrier, or will it be filed? ☐ Yes ☐ No
Have you received any payment for this damage or injury? ☐ Yes ☐ No
If yes, what amount did you receive?
Amount of deductible, if any:
Claimant's Drivers License Number: | Vehicle License Number:
Make of Vehicle: | Model: | Year:
Vehicle ID Number:

Notice and Signature

22 I declare under penalty of perjury under the laws of the State of California that all the information I have provided is true and correct to the best of my information and belief. I further understand that if I have provided information that is false, intentionally incomplete, or misleading I may be charged with a felony punishable by up to four years in state prison and/or a fine of up to $10,000 (Penal Code section 72).

Signature of Claimant or Representative | 8.23.12 *Date*

23 Mail the original and two copies of this form and all attachments with the $25 filing fee or the "Filing Fee Waiver Request" to: Government Claims Program, P.O. Box 3035, Sacramento, CA, 95812-3035. Forms can also be delivered to the Victim Compensation and Government Claims Board, 400 R St., 5th flr, Sacramento.

For State Agency Use Only

24 *Name of State Agency* | *Fund or Budget Act Appropriation No.*

Name of Agency Budget Officer or Representative | *Title*

Signature | *Date*

VCGCB-GC-002 (Rev. 8/04)

ATTACHMENT TO GOVERNMENT CLAIMS FORM
CALIFORNIA VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD
Claimant: Karim Shabazz

13. Date of Incident:

March 5, 2012 and continuing

14. State agencies or employees against whom this claim is filed

Employees of the State of California.
Entities and persons receiving funding and financial assistance from the State of California and from sources of federal funds.

Governor Jerry Brown who is vested in supreme executive power of the State and whose duty it is to see that the law of the state is faithfully executed under Cal. Const. Art. I

Attorney General of the State of California who is the chief officer of the State and has the duty to see that the laws of the State are uniformly and adequately enforced under Cal. Constitution Art. VI § 13. And whose duty it is to take action to prevent discrimination within institutions receiving public funding of the state. And who has resources through his/her direct supervision over every district attorney in the state.

Former Attorney General Jerry Brown
Current Attorney General Kamala Harris

Los Angeles Superior Court of the County of Los Angeles (in all locations) and related departments, civil appeals unit, court reporter services department, finance, executive and administrative offices, pro per assistance program, and case management

Judge Elizabeth Grimes – Central District – County Officer/employee (now Justice of Court of Appeal Second Appellate District Division 8) –Elevated to Court of Appeal while involved in this case . She was elevated to Division 8 while Division 8 was conducting proceedings regarding correcting record (based on missing originals submitted to chambers of Elizabeth Grimes). Case was then transferred from Division 8 to Division 7.

All clerks or persons involved having knowledge, involvement, or handling of evidence submitted in summary judgment proceedings by defendant Federal Express Corporation including submission of evidence for consideration in chambers of Elizabeth Grimes.

Call court reporters assigned or present in the proceedings.

Employees and persons receiving state and federal assistance or acting as adjuncts to employees of the state, include but is not limited to

John A. Clark, Executive Officer/Clerk – County Officer/employee

Administrative Justice, Roger Boren in the Court of Appeal for the Second Appellate District

Division 8 and Division 7

15. Dollar amount of claim: $7-8.3 million +
Explain how you calculated the amount

Claimant damages is at least $4.5 million.

This includes the following computation includes loss of legal claims including but not limited to claims of employment discrimination (disability, race, and gender)(including punitive damages) , lost wages and benefits (future and past), loans and lost credit standing, pain and suffering and humiliation, other economic and non-economic damages, consequential damages, interest, and attorney fees and costs. It also includes the expenses associated with efforts to obtain declaratory, injunctive and equitable relief.

17. Describe the specific damage or injury: See above

18. Explain the circumstances that led to the damage or injury:

The damages arise from *Karim Shabazz v. Federal Express Corporation* (LASC BC373824, COA 2nd B211986, SC S199146).

Claimant was long term employee for FedEx. He filed claim asserting employment discrimination and termination in violation of public policy among other. It was never disclosed to him that a County employee and official was involved in and conducting the proceedings. He was never asked and never provided his informed written consent to the proceedings.

The employee/official directed that claimant could not be represented by limited scope representation (although this is the only way he could afford to have the advice of an attorney). The employee/official directed that claimant could not have an attorney with him at his deposition under limited scope representation. The employee/official then would not allow claimant to use the deposition transcript as defense in summary judgment proceedings or provide a protective order so he could gain access to the transcript.

As part of the summary judgment proceedings FedEx altered documents (which relate to the issue of discriminatory termination based on race). It had forgotten that the unaltered documents had been submitted during an investigation by the Department of Fair Employment and Housing. The altered original documents were submitted by in-house counsel to the employee/official's chambers during the motion for summary judgment without service on claimant After discovery of the submission the employee/claimant then indicated that her department "lost" the original documents.

19. Explain why you believe the state is responsible for the damage or injury:

The state is responsible for the damage and injury for various reasons, including but not limited to:

a. The individuals causing the injuries are claimed to be state employees and there is a dispute between municipalities and the state.

b. Given the lack of transparency it is nearly impossible for persons with similar grievances to determine the who what when were and how to resolve serious concerns in Superior Court of the State of California, County of Los Angeles

c. Some of the state employees are judges. However, those judges were all subjected to constitutional resignation under Art VI § 17 during the damage and harm to claimant. They receive salaries as employees of the County of Los Angeles and also from the state. This condition was deemed unconstitutional in Sturgeon v. County of Los Angeles, 167 Cal.App.4th 630 (Cal. 2008). The y also function as officials for the County contributing to their constitutional resignation. See Govt Code § 29320.

d. The departments and personnel are state employees and they are engaging in the discrimination and misconduct and do not have adequate supervision and control

e. The state is engaged in and is supporting an unconstitutional condition causing harm and failed to devise adequate procedures consistent with the constitutional right of due process

f. The state unconstitutionally is allowing counties to pay supplemental benefits to judges is in complete denial about the misconduct and then elevates the employees engaged in the misconduct to a higher office as a reward.

g. The state is providing funding to departments that perpetuate discrimination. The State Attorney General's Office has not adequately taken action to deal with complaints and harm and is defending the persons causing harm.

h. The situation in the County of Los Angeles Superior Court is completely out of control and the state is funding an incompetent operation which is causing devastating harm, No law enforcement agency has been willing to put the time, resources, and energy into attempting to resolve the issues and grievances.

i. The California State Bar is being used to intimidate attorneys who may be willing to speak out against the misconduct that they obviously see.

j. The state is paying lip service to access to justice and then allows its employees to prohibit legal representation by limited scope representation.

The state employees are conducting proceedings without disclosure and written consent and are engaged in misconduct. Claimant did not receive disclosure and never consented. See Rooney v. Vermont Investment Corporation, 10 Cal.3d 351 (Cal. 1973), People v. Tijerina, 1 Cal.3d 41 (Cal. 1969).

The individuals (formerly judges) are the subject of a constitutional resignation and are only functioning as County Officials and employees. Claimant does not agree or stipulate to state employees conducting legal proceedings

Under California Constitution Article VI sec. 17 during a judge's term of office he/she is ineligible for public employment or public office other than judicial employment or judicial office and the acceptance of public employment or public office is a resignation of the office of judge. See Alex v. County of Los Angeles, 35 Cal.App.3d 994 (Cal. 1973), Abbott v. McNutt, 218 Cal. 225 (Cal. 1933), Attorney General Opn 83-607 (November 1983).

Article VI sec. 17 states as follows:

> "A judge of a court of record may not practice law and during the term for which the judge was selected ***is ineligible for public employment or public office other than judicial employment or judicial office,*** except a judge of a court of record may accept a part-time teaching position that is outside the normal hours of his or her judicial position and that does not interfere with the regular performance of his or her judicial duties while holding office. A judge of a trial court of record may, however, become eligible for election to other public office by taking a leave of absence without pay prior to filing a declaration of candidacy. ***Acceptance of the public office is a resignation from the office of judge.***
>
> A judicial officer may not receive fines or fees for personal use.
>
> A judicial officer may not earn retirement service credit from a public teaching position while holding judicial office."

This provision impacts all judges whether in the trial or appellate court.

The California Government Code and Code of Civil Procedure indicates that judges are officers of the County of Los Angeles. California Government Code § 29320 states as follows:

> "As used in this article, ***"officer of the county" includes any elective or appointive officer of a county, superior court, or judicial district*** and any person in charge of any office, department, service, or institution of the county, or a division or branch thereof."

The California Code of Civil Procedure § 38 confirms that references in a statute to a judicial district as it relates to a Superior Court means the County. It states as follows:

"Unless the provision or context otherwise requires, a reference in a statute to ***a judicial district means***:

(a) As it relates to a court of appeal, the court of appeal district.
(b) As it relates to a superior court, the county.

(c) As it relates to a municipal court, the municipal court district.

(d) As it relates to a county in which there is no municipal court, the county."

Recently the California Court of Appeal in the case of Sturgeon v. County of Los Angeles, 167 Cal.App.4th 630 (Cal. 2008) held that compensation which the County of Los Angeles has been providing to its judges in the Superior Court of the County of Los Angeles was impermissible under the California Constitution Article VI Sec. 19. It held as follows:

"Section 19, article VI of the California Constitution requires that the Legislature 'prescribe compensation for judges of the court of record." The duty to prescribe judicial compensation is not delegable. Thus the practice of the County of Los Angeles (the county) of providing Los Angeles Superior Court judges with employment benefits, in addition to compensation prescribed by the Legislature, is not permissible. Accordingly, we must reverse an order granting summary judgment in favor of the county in an action brought by a taxpayer who challenged the validity of the benefits the county provides to *its superior court judges*." Sturgeon at 635. (emphasis added).

California Constitution Article VI Sect 19 states:

"The Legislature shall prescribe compensation for judges of courts of record. A judge of a court of record may not receive the salary for the judicial office held by the judge while any cause before the judge remains pending and undetermined for 90 days after it has been submitted for decision."

As the claimant and others in the public lodged complaints concerning the operation of the Superior Court of the County of Los Angeles the state continued to provide funding when there does not even exist a grievance procedure. Such procedure so there will be clear public data available about the nature and extent of the grievances and problems (and not filtered through entities which are the " source" of the problem and not a part of the "solution" to the problems and grievances)

COUNTY OF LOS ANGELES

CLAIM FOR DAMAGES TO PERSON OR PROPERTY

INSTRUCTIONS:

1. Read claim *thoroughly.*
2. Fill out claim as indicated; attach additional information if necessary.
3. This office needs *three copies* of your claim and *three sets* of attachments (if any).
4. This claim form *must* be signed.

DELIVER OR U.S. MAIL TO: EXECUTIVE OFFICER, BOARD OF SUPERVISORS, ATTENTION: CLAIMS, 500 WEST TEMPLE STREET, ROOM 383, KENNETH HAHN HALL OF ADMINISTRATION, LOS ANGELES, CA 90012 (213) 974-1440

TIME STAMP HERE OFFICE USE ONLY

1. NAME OF CLAIMANT: Karim Shabazz

2. ADDRESS AND TELEPHONE NUMBER TO WHICH YOU DESIRE NOTICES OR COMMUNICATIONS TO BE SENT: Law Otc. Nina Ringgold.

Street: 9420 Reseda Blvd., City, State: Northridge, CA Zip Code: 91324

HOME TELEPHONE: (818) 773.2409

BUSINESS TELEPHONE: (818) 773.2409

3. CLAIMANT'S BIRTHDATE:

4. CLAIMANT'S SOCIAL SECURITY NUMBER:

5. WHEN DID DAMAGE OR INJURY OCCUR?

DATE: Attached TIME: Attached

6. WHERE DID DAMAGE OR INJURY OCCUR?

Street: See Attached City, State: Zip Code:

7. DESCRIBE IN DETAIL HOW DAMAGE OR INJURY OCCURRED:

See Attached

8. WERE POLICE OR PARAMEDICS CALLED? YES ☐ NO ☑

9. IF PHYSICIAN WAS VISITED DUE TO INJURY, INCLUDE DATE OF FIRST VISIT AND PHYSICIAN'S NAME, ADDRESS AND PHONE NUMBER:

DATE OF FIRST VISIT: PHYSICIAN'S NAME:

PHYSICIAN'S ADDRESS: PHONE: ( )

10. WHY DO YOU CLAIM COUNTY IS RESPONSIBLE?

See Attached

11. NAMES OF ANY COUNTY EMPLOYEES (AND THEIR DEPARTMENTS) INVOLVED IN INJURY OR DAMAGE (IF APPLICABLE):

NAME: Elizabeth Grimes DEPT.:

NAME: See Attached DEPT.:

12. WITNESSES TO DAMAGE OR INJURY: LIST ALL PERSONS AND ADDRESSES OF PERSONS KNOWN TO HAVE INFORMATION:

NAME: See Attached PHONE:

ADDRESS:

NAME: PHONE:

ADDRESS:

NAME: PHONE:

13. LIST DAMAGES INCURRED TO DATE (and attach copies of receipts or repair estimate):

See Attached

TOTAL DAMAGES TO DATE: $ Attached

TOTAL ESTIMATED PROSPECTIVE DAMAGES: $ Attached

THIS CLAIM MUST BE SIGNED

NOTE: PRESENTATION OF A FALSE CLAIM IS A FELONY (PENAL CODE SECTION 72.)

WARNING

- CLAIMS FOR DEATH, INJURY TO PERSON OR TO PERSONAL PROPERTY MUST BE FILED NOT LATER THAN 6 MONTHS AFTER THE OCCURRENCE. (GOVERNMENT CODE SECTION 911.2)
- ALL OTHER CLAIMS FOR DAMAGES MUST BE FILED NOT LATER THAN ONE YEAR AFTER THE OCCURRENCE. (GOVERNMENT CODE SECTION 911.2)
- SUBJECT TO CERTAIN EXCEPTIONS, YOU HAVE ONLY SIX (6) MONTHS FROM THE DATE OF THE WRITTEN NOTICE OF REJECTION OF YOUR CLAIM TO FILE A COURT ACTION. (GOVERNMENT CODE SECTION 945.6)
- IF WRITTEN NOTICE OF REJECTION OF YOUR CLAIM IS NOT GIVEN, YOU HAVE TWO (2) YEARS FROM ACCRUAL OF THE CAUSE OF ACTION TO FILE A COURT ACTION. (GOVERNMENT CODE SECTION 945.6)

14. SIGNATURE OF CLAIMANT OR PERSON FILING ON HIS/HER BEHALF GIVING RELATIONSHIP TO CLAIMANT: X COPY

15. PRINT OR TYPE NAME: Nina Ringgold Attorney for Claimant

DATE: 8/23/12

T:\FORMS\CLAIMFORM2.DOC REVISED 6/00

Attachment to claim for damages to person or property for Karim Shabazz

Item 5 – When did damage or injury occur

March 5, 2012 and continuing

Item 6-Where did damage occur

Los Angeles Superior Court for the County of Los Angeles
111 North Hill Street, Los Angeles, CA
6230 Sylmar, Van Nuys, CA -

Item 7- Describe in detail how damage or injury occurred

The damages arise from *Karim Shabazz v. Federal Express Corporation* (LASC BC373824, COA 2nd B211986, SC S199146).
Claimant was long term employee for FedEx. He filed claim asserting employment discrimination and termination in violation of public policy among other. It was never disclosed to him that a County employee and official was involved in and conducting the proceedings. He was never asked and never provided his informed written consent to the proceedings.

The employee/official directed that claimant could not be represented by limited scope representation (although this is the only way he could afford to have the advice of an attorney). The employee/official directed that claimant could not have an attorney with him at his deposition under limited scope representation. The employee/official then would not allow claimant to use the deposition transcript as defense in summary judgment proceedings or provide a protective order so he could gain access to the transcript.

As part of the summary judgment proceedings FedEx altered documents (which relate to the issue of discriminatory termination based on race). It had forgotten that the unaltered documents had been submitted during an investigation by the Department of Fair Employment and Housing. The altered original documents were submitted by in-house counsel to the employee/official's chambers during the motion for summary judgment without service on claimant After discovery of the submission the employee/claimant then indicated that her department "lost" the original documents.

Item 10 – Why do you claim county is responsible

The county officials and employees conducting proceedings without disclosure and written consent and are engaged in misconduct. Claimant did not receive disclosure and never consented. See Rooney v. Vermont Investment Corporation, 10 Cal.3d 351 (Cal. 1973), People v. Tijerina, 1 Cal.3d 41 (Cal. 1969).

The individuals (formerly judges) are the subject of a constitutional resignation and are only functioning as County Officials and employees. Claimants to not agree or stipulate to County Officials and employees continuing to deplete a private trust.

Under California Constitution Article VI sec. 17 during a judge's term of office he/she is ineligible for public employment or public office other than judicial employment or judicial office and the acceptance of public employment or public office is a resignation of the office of judge. See Alex v. County of Los Angeles, 35 Cal.App.3d 994 (Cal. 1973), Abbott v. McNutt, 218 Cal. 225 (Cal. 1933), Attorney General Opn 83-607 (November 1983).

Article VI sec. 17 states as follows:

> "A judge of a court of record may not practice law and during the term for which the judge was selected ***is ineligible for public employment or public office other than judicial employment or judicial office,*** except a judge of a court of record may accept a part-time teaching position that is outside the normal hours of his or her judicial position and that does not interfere with the regular performance of his or her judicial duties while holding office. A judge of a trial court of record may, however, become eligible for election to other public office by taking a leave of absence without pay prior to filing a declaration of candidacy. ***Acceptance of the public office is a resignation from the office of judge.***
>
> A judicial officer may not receive fines or fees for personal use.
>
> A judicial officer may not earn retirement service credit from a public teaching position while holding judicial office."

This provision impacts all judges whether in the trial or appellate court.

The California Government Code and Code of Civil Procedure indicates that judges are officers of the County of Los Angeles. California Government Code § 29320 states as follows:

> "As used in this article, ***"officer of the county" includes any elective or appointive officer of a county, superior court, or judicial district*** and any person in charge of any office, department, service, or institution of the county, or a division or branch thereof."

The California Code of Civil Procedure § 38 confirms that references in a statute to a judicial district as it relates to a Superior Court means the County. It states as follows:

> "Unless the provision or context otherwise requires, a reference in a statute to ***a judicial district means***:
>
> (a) As it relates to a court of appeal, the court of appeal district.
> ***(b) As it relates to a superior court, the county.***
>
> (c) As it relates to a municipal court, the municipal court district.
>
> (d) As it relates to a county in which there is no municipal court, the county."

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> "Section 19, article VI of the California Constitution requires that the Legislature 'prescribe compensation for judges of the court of record." The duty to prescribe judicial compensation is not delegable. Thus the practice of the County of Los Angeles (the county) of providing Los Angeles Superior Court judges with employment benefits, in addition to compensation prescribed by the Legislature, is not permissible. Accordingly, we must reverse an order granting summary judgment in favor of the county in an action brought by a taxpayer who challenged

the validity of the benefits the county provides to *its superior court judges."* Sturgeon at 635. (emphasis added).

California Constitution Article VI Sect 19 states:

"The Legislature shall prescribe compensation for judges of courts of record.
A judge of a court of record may not receive the salary for the judicial office held by the judge while any cause before the judge remains pending and undetermined for 90 days after it has been submitted for decision."

As the claimant and others in the public lodged complaints concerning the operation of the Superior Court of the County of Los Angeles the liability for nonperformance or malperformance of the County Officers attached to the official bond of said officers and the premium was paid for by the County of Los Angeles. See California Government Code § 1505, 1651. Claimant demands immediate payment on public bond.

Item 11- Names of County employees (and their departments) involved injury or damage

John A. Clark, Executive Officer/Clerk – County Officer/employee
Judge Elizabeth Grimes – Central District – County Officer/employee (now Justice of Court of Appeal Second Appellate District Division 8)
All clerks or persons involved having knowledge, involvement, or handling of evidence submitted in summary judgment proceedings by defendant Federal Express Corporation including submission of evidence for consideration in chambers of Elizabeth Grimes.
Call court reporters assigned or present in the proceedings.

Item 13 – List of damages incurred to date

Claimant damages is at least $4.5 million.

This includes the following computation includes loss of legal claims including but not limited to claims of employment discrimination (disability, race, and gender)(including punitive damages) , lost wages and benefits (future and past), loans and lost credit standing, pain and suffering and humiliation, other economic and non-economic damages, consequential damages, interest,

and attorney fees and costs. It also includes the expenses associated with efforts to obtain declaratory, injunctive and equitable relief.

EXHIBIT 3

CALIFORNIA
VICTIM COMPENSATION & GOVERNMENT CLAIMS BOARD
Victim Compensation & Government Claims Board

STATE OF CALIFORNIA
EDMUND G. BROWN JR., Governor

GOVERNMENT CLAIMS PROGRAM
400 R Street, 5th Floor ♦ Sacramento, California 95811
Mailing Address: P.O. Box 3035 ♦ Sacramento, California 95812
Toll Free Telephone Number 1-800-955-0045 ♦ Fax Number: (916) 491-6443
Internet: www.vcgcb.ca.gov

Nina R Ringgold
Attorney at Law
9420 Reseda Blvd #361
Northridge, CA 91324

October 26, 2012

RE: ~~Claim G606414 for Karim Shabazz~~

Dear Nina Ringgold,

The Victim Compensation and Government Claims Board rejected your claim at its hearing on October 18, 2012.

If you choose to pursue court action in this matter, it is not necessary or proper to include the Victim Compensation and Government Claims Board (Board) in your lawsuit unless the Board was identified as a defendant in your original claim. Please consult Government Code section 955.4 regarding proper service of the summons.

If you have questions about this matter, please mention letter reference 118 and claim number G606414 when you call or write your claim technician or analyst at (800) 955-0045.

Sincerely,

Mindy Fox, Deputy Executive Officer
Victim Compensation and Government Claims Board

cc: D-8 Attorney Generals Office, Attn: Tort Claims Coordinator

Warning

"Subject to certain exceptions, you have only six months from the date this notice was personally delivered or deposited in the mail to file a court action on this claim." See Government Code Section 945.6. You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately".

Ltr 118 Board Claim Rejection

CALIFORNIA
VCGCB
Victim Compensation & Government Claims Board

STATE OF CALIFORNIA
EDMUND G. BROWN JR., Governor

GOVERNMENT CLAIMS PROGRAM
400 R Street, 5th Floor • Sacramento, California 95811
Mailing Address: P.O. Box 3035 • Sacramento, California 95812
Toll Free Telephone Number 1-800-955-0045 • Fax Number: (916) 491-6443
Internet: www.vcgcb.ca.gov

ANNA M. CABALLERO
Secretary
State and Consumer Services Agency
Chairperson

JOHN CHIANG
State Controller
Board Member

MICHAEL A. RAMOS
San Bernardino County District Attorney
Board Member

JULIE NAUMAN
Executive Officer

Nina R Ringgold
Attorney at Law
9420 Reseda Blvd #361
Northridge, CA 91324

September 10, 2012

RE: Claim G606414 for Karim Shabazz

Dear Nina Ringgold,

The Victim Compensation and Government Claims Board (VCGCB) received your claim on August 27, 2012.

Your claim is accepted only to the extent that it was presented no later than six months after the accrual of the cause of action.

Based on its review of your claim, Board staff believes that the court system is the appropriate means for resolution of these claims, because the issues presented are complex and outside the scope of analysis and interpretation typically undertaken by the Board. The VCGCB will act on your claim at the October 18, 2012, hearing. You do not need to appear at this hearing. The VCGCB's rejection of your claim will allow you to initiate litigation should you wish to pursue this matter further.

If you have questions about this matter, please mention letter reference 52 and claim number G606414 when you call or write your claim technician or analyst at (800) 955-0045.

Sincerely,

Government Claims Program
Victim Compensation and Government Claims Board

cc: D-8 Attorney Generals Office, Attn: Tort Claims Coordinator

Ltr 52 Complex Issue Reject - 6 Month Qualify

COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL
648 KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012-2713

TELEPHONE
(213) 974-1913
FACSIMILE
(213) 687-8822
TDD
(213) 633-0901

JOHN F. KRATTLI
County Counsel

September 4, 2012

Nina Ringgold, Esq.
LAW OFFICE OF NINA RINGGOLD
9420 Reseda Boulevard
Northridge, California 91324

Re:	**Claim(s) Filed:**	**August 22, 2012**
	File Number(s):	**12-1100686*001**
	Your Client(s):	**Karim Shabazz**

Dear Counselor:

This letter is to inform you that the above-referenced claim which you filed with the Los Angeles County Board of Supervisors was rejected on **August 27, 2012.**

An investigation of this matter fails to indicate any involvement on the part of the County of Los Angeles, its officers, agents or employees. Accordingly, your claim was rejected on that basis.

STATE LAW REQUIRES THAT YOU BE GIVEN THE FOLLOWING "WARNING":

Subject to certain exceptions, you have only (6) months from the date this notice was personally delivered or deposited in the mail to file a court action on this claim. See Government Code Section 945.6.

This time limitation applies only to causes of action for which Government Code Sections 900 - 915.4 required you to present a claim. Other causes of action, including those arising under federal law, may have different time limitations.

Very truly yours,

JOHN F. KRATTLI
County Counsel

By
LILIANA CAMPOS
Deputy County Counsel
General Litigation Division

LC:ce

DECLARATION FOR SERVICE BY MAIL

STATE OF CALIFORNIA
County of Los Angeles

I am and at all times herein mentioned have been a citizen of the United States and resident of the County of Los Angeles, over the age of eighteen years and not a party to nor interested in the within action; that my business address is 648 Kenneth Hahn Hall of Administration, City of Los Angeles, County of Los Angeles, State of California 90012.

That on the 4th day of **September 2012**, I served the attached **"Notice of Denial Letter"** upon claimant by depositing a copy thereof, enclosed in a sealed envelope with postage thereon fully prepaid, in a United States mail box in Los Angeles, California addressed as follows:

Nina Ringgold, Esq.
LAW OFFICE OF NINA RINGGOLD
9420 Reseda Boulevard
P.O. Box 25180
Northridge, Ca 91324

and that the person on whom said service was made has/resides his/her office at a place where there is a regular communication by mail between the place of mailing and the place so addressed.

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

Executed on this 4th day of **September 2012,** at Los Angeles, California.

Michele A. Yoshimoto
Signature

EXHIBIT 4

BILL NUMBER: SBX2 11 CHAPTERED 02/20/09

CHAPTER 9
FILED WITH SECRETARY OF STATE FEBRUARY 20, 2009
APPROVED BY GOVERNOR FEBRUARY 20, 2009
PASSED THE SENATE FEBRUARY 14, 2009
PASSED THE ASSEMBLY FEBRUARY 15, 2009
AMENDED IN SENATE FEBRUARY 14, 2009

INTRODUCED BY Senator Steinberg

FEBRUARY 11, 2009

An act to add Sections 68220, 68221, and 68222 to the Government Code, relating to judges.

LEGISLATIVE COUNSEL'S DIGEST

SB 11, Steinberg. Judges: employment benefits.

The California Constitution requires the Legislature to prescribe compensation for judges of courts of record. Existing law authorizes a county to deem judges and court employees as county employees for purposes of providing employment benefits. These provisions were held unconstitutional as an impermissible delegation of the obligation of the Legislature to prescribe the compensation of judges of courts of record.

This bill would provide that judges who received supplemental judicial benefits provided by a county or court, or both, as of July 1, 2008, shall continue to receive supplemental benefits from the county or court then paying the benefits on the same terms and conditions as were in effect on that date. The bill would authorize a county to terminate its obligation to provide benefits upon

providing 180 days' written notice to the Administrative Director of the Courts and the impacted judges, but that termination would not be effective as to any judge during his or her current term while that judge continues to serve as a judge in that court or, at the election of the county, when that judge leaves office. The bill also would authorize the county to elect to provide benefits for all judges in that county. The bill would require the Judicial Council to report to the Senate Committee on Budget and Fiscal Review, the Assembly Committee on Budget, and both the Senate and Assembly Committees on Judiciary on or before December 31, 2009, analyzing the statewide benefits inconsistencies.

This bill would provide that no governmental entity, or officer or employee of a governmental entity, shall incur any liability or be subject to prosecution or disciplinary action because of benefits provided to a judge under the official action of a governmental entity prior to the effective date of the bill on the ground that those benefits were not authorized under law.

This bill would provide that nothing in its provisions shall require the Judicial Council to increase funding to a court for the purpose of paying judicial benefits or obligate the state or the Judicial Council to pay for benefits previously provided by the county, city and county, or the court.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) It is the intent of the Legislature to address the decision of the Court of Appeal in Sturgeon v. County of Los Angeles (2008) 167 Cal.App.4th 630, regarding county-provided benefits for judges.

(b) These county-provided benefits were considered by the Legislature in enacting the Lockyer-Isenberg Trial Court Funding Act of 1997, in which counties could receive a reduction in the county's

maintenance of effort obligations if counties elected to provide benefits pursuant to paragraph (l) of subdivision (c) of Section 77201 of the Government Code for trial court judges of that county.

(c) Numerous counties and courts established local or court supplemental benefits to retain qualified applicants for judicial office, and trial court judges relied upon the existence of these longstanding supplemental benefits provided by the counties or the court.

SEC. 2. Section 68220 is added to the Government Code, to read:

68220. (a) Judges of a court whose judges received supplemental judicial benefits provided by the county or court, or both, as of July 1, 2008, shall continue to receive supplemental benefits from the county or court then paying the benefits on the same terms and conditions as were in effect on that date.

(b) A county may terminate its obligation to provide benefits under this section upon providing the Administrative Director of the Courts and the impacted judges with 180 days' written notice. The termination shall not be effective as to any judge during his or her current term while that judge continues to serve as a judge in that court or, at the election of the county, when that judge leaves office. The county is also authorized to elect to provide benefits for all judges in the county.

SEC. 3. Section 68221 is added to the Government Code, to read:

68221. To clarify ambiguities and inconsistencies in terms with regard to judges and justices and to ensure uniformity statewide, the following shall apply for purposes of Sections 68220 to 68222, inclusive:

(a) "Benefits" and "benefit" shall include federally regulated benefits, as described in Section 71627, and deferred compensation plan benefits, such as 401(k) and 457 plans, as described in Section 71628, and may also include professional development allowances.

(b) "Salary" and "compensation" shall have the meaning as set forth in Section 1241.

SEC. 4. Section 68222 is added to the Government Code, to read:

68222. Nothing in this act shall require the Judicial Council to increase funding to a court for the purpose of paying judicial benefits or obligate the state or the Judicial Council to pay for benefits previously provided by the county, city and county, or the court.

SEC. 5. Notwithstanding any other law, no governmental entity, or officer or employee of a governmental entity, shall incur any liability or be subject to prosecution or disciplinary action because of benefits provided to a judge under the official action of a governmental entity prior to the effective date of this act on the ground that those benefits were not authorized under law.

SEC. 6. The Judicial Council shall report to the Senate Committee on Budget and Fiscal Review, the Assembly Committee on Budget, and both the Senate and Assembly Committees on Judiciary on or before December 31, 2009, analyzing the statewide benefits inconsistencies.

SEC. 7. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

EXHIBIT 5

391.7. As Amended and 391.7 as added effective July 1, 2011

CALIFORNIA 2011 LEGISLATIVE SERVICE
2011 Portion of 2011-2012 Regular Session

Additions are indicated by Text; deletions by
* * *.
Vetoes are indicated by ~~Text~~;
stricken material by ~~Text~~.

CHAPTER 49
S.B. No. 731
JUDGES--ACTIONS AND PROCEEDINGS--ARBITRATION AND AWARD

AN ACT to amend Sections 391.7, 1141.20, and 1141.23 of, and to add Section 391.8 to, the Code of Civil Procedure, relating to civil actions.

[Filed with Secretary of State July 1, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

SB 731, Committee on Judiciary. Civil actions.

(1) Existing law permits a court, on its own motion or the motion of any party, to enter a prefiling order prohibiting a vexatious litigant from filing any new litigation in propria persona without first obtaining leave of the presiding judge of the court where the litigation is proposed to be filed. Existing law permits a presiding judge to allow a vexatious litigant's filing only under specified circumstances, and permits the presiding judge to condition the filing upon the furnishing of security. Existing law prohibits a clerk of a court from filing any litigation presented by a vexatious litigant subject to a prefiling order unless the vexatious litigant first obtains an order permitting the filing and provides a process for staying and dismissing litigation by a vexatious litigant if the clerk mistakenly accepts it.

This bill would extend the authority described above to a presiding justice or to the designee of a presiding justice or a presiding judge. The bill would also permit a vexatious litigant who is subject to a prefiling order to file an application to vacate the prefiling order and remove his or her name from the Judicial Council's list of vexatious litigants, as specified. The bill would prohibit a vexatious litigant whose application is denied from filing another application before 12 months has elapsed after the date of the denial. The bill would permit a court to vacate a prefiling order and order removal of a vexatious litigant's name from the Judicial Council's list of vexatious litigants upon a showing of a material change in the facts upon which the order was granted and finding that the ends of justice would be served by vacating the order.

(2) Existing law requires that specified civil cases be submitted to arbitration and that an arbitration award is final unless a request for a de novo trial is filed within 30 days after the date the arbitrator files the award with the court. Existing law requires that an arbitration award be filed in the court in which the action is pending, and if a request for a de novo trial is not made and the award is not vacated, the award be entered in the judgment book.

This bill would further condition the finality of an arbitration award, as described above, on a request for dismissal not having been made, and would extend the period for making a request for dismissal or for a de novo trial to 60 days after the date the arbitrator files the award.

The people of the State of California do enact as follows:

SECTION 1. Section 391.7 of the Code of Civil Procedure is amended to read:

<< CA CIV PRO § 391.7 >>

391.7. (a) In addition to any other relief provided in this title, the court may, on its own motion or the motion of any party, enter a prefiling order which prohibits a vexatious litigant from filing any new litigation in the courts of this state in propria persona without first obtaining leave of the presiding justice or presiding judge of the court where the litigation is proposed to be filed. Disobedience of the order by a vexatious litigant may be punished as a contempt of court.

(b) The presiding justice or presiding judge shall permit the filing of that litigation only if it appears that the litigation has merit and has not been filed for the purposes of harassment or delay. The presiding justice or presiding judge may condition the filing of the litigation upon the furnishing of security for the benefit of the defendants as provided in Section 391.3.

(c) The clerk may not file any litigation presented by a vexatious litigant subject to a prefiling order unless the vexatious litigant first obtains an order from the presiding justice or presiding judge permitting the filing. If the clerk mistakenly files the litigation without the order, any party may file with the clerk and serve, or the presiding justice or presiding judge may direct the clerk to file and serve, on the plaintiff and other parties a notice stating that the plaintiff is a vexatious litigant subject to a prefiling order as set forth in subdivision (a). The filing of the notice shall automatically stay the litigation. The litigation shall be automatically dismissed unless the plaintiff within 10 days of the filing of that notice obtains an order from the presiding justice or presiding judge permitting the filing of the litigation as set forth in subdivision (b). If the presiding justice or presiding judge issues an order permitting the filing, the stay of the litigation shall remain in effect, and the defendants need not plead, until 10 days after the defendants are served with a copy of the order.

(d) For purposes of this section, "litigation" includes any petition, application, or motion other than a discovery motion, in a proceeding under the Family Code or Probate Code, for any order.

(e) The presiding justice or presiding judge of a court may designate a justice or judge of the same court to act on his or her behalf in exercising the authority and responsibilities provided under subdivisions (a) to (c), inclusive.

(f) The clerk of the court shall provide the Judicial Council a copy of any prefiling orders issued pursuant to subdivision (a). The Judicial Council shall maintain a record of vexatious litigants subject to those prefiling orders and shall annually disseminate a list of those persons to the clerks of the courts of this state.

SEC. 2. Section 391.8 is added to the Code of Civil Procedure, to read:

<< CA ST § 391.8 >>

391.8. (a) A vexatious litigant subject to a prefiling order under Section 391.7 may file an application to vacate the prefiling order and remove his or her name from the Judicial Council's list of vexatious litigants subject to prefiling orders. The application shall be filed in the court that entered the prefiling order, either in the action in which the prefiling order was entered or in conjunction with a request to the presiding justice or presiding judge to file new litigation under Section 391.7. The application shall be made before the justice or judge who entered the order, if that justice or judge is available. If that justice or judge who entered the order is not available, the application shall be made before the presiding justice or presiding judge, or his or her designee.

(b) A vexatious litigant whose application under subdivision (a) was denied shall not be permitted to file another application on or before 12 months has elapsed after the date of the denial of the previous application.

(c) A court may vacate a prefiling order and order removal of a vexatious litigant's name from the Judicial Council's list of vexatious litigants subject to prefiling orders upon a showing of a material change in the facts upon which the order was granted and that the ends of justice would be served by vacating the order.

EXHIBIT 6

CALIFORNIA LAW REVISION COMMISSION STAFF MEMORANDUM

Study J-1200 December 4, 1995

Memorandum 95-79

Trial Court Unification: Voting Rights Act

The new unification statute raises difficult voting rights issues. The issues fall into two categories: (1) questions relating to the preclearance requirement of Section 5 of the Voting Rights Act, 42 U.S.C. § 1973c, and (2) issues pertaining to the Act's Section 2 prohibition against discriminatory election procedures, 42 U.S.C. § 1973(a).

THE PRECLEARANCE REQUIREMENT

Section 5 of the Voting Rights Act requires certain jurisdictions to obtain federal preclearance of any proposed changes in election procedures. The purpose of the preclearance requirement is to ensure that the proposed change "does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color." 42 U.S.C. § 1973c.

It is well-established that the preclearance requirement applies to judicial elections. Clark v. Roemer, 500 U.S. 646 (1991). The new unification statute does not expressly alter judicial election procedures. *See* Gov't Code § 68083. But superior court judges are elected countywide, whereas municipal court judges are elected in districts that usually do not encompass an entire county. Cal. Const. art. VI, §§ 5, 16(b). Thus, if the Governor converts a municipal court judgeship to a superior court judgeship pursuant to Section 68083, the conversion amounts to a change in election procedure in those counties where the municipal court district is not countywide (2/3 of the counties). One more judge will be elected countywide, and one fewer judge will be elected in a smaller district. Because it is generally easier for minorities to control smaller districts than larger ones, the result may be a decrease in minority voting power.

Regardless of the impact on minority voting power, in counties subject to the preclearance requirement the change must be submitted for federal approval before it is implemented. Four counties in California are subject to the preclearance requirement: Kings, Merced, Monterey, and Yuba. In those counties,

conversions of municipal court judgeships to superior court judgeships pursuant to Section 68083 will have to be precleared.

Further, if the Governor decides to convert the last municipal court judgeship in a district into a superior court judgeship, redistricting will be necessary. See Memorandum 95-78. Under existing statutes, the Board of Supervisors of the affected county would be responsible for the redistricting. *Id.* In those circumstances, both the Governor's decision to convert the judgeship and the Board of Supervisors' subsequent redistricting plan will need preclearance in preclearance jurisdictions.

Accordingly, a statute authorizing and directing the Attorney General to seek preclearance of judgeship conversions and related redistricting plans may be in order. The staff suggests something like the following:

> **Gov't Code § 68083.6 (added). Preclearance of judgeship conversions**
>
> 68083.6. On conversion of a judgeship pursuant to Section 68083 in a county subject to the preclearance provisions of the federal Voting Rights Act, 42 U.S.C. § 1973 *et seq.*, the Attorney General shall seek to obtain preclearance of the conversion and any related redistricting.
>
> **Comment.** Section 68083.6 requires the Attorney General to seek preclearance of judgeship conversions and any related redistricting in jurisdictions subject to the preclearance provisions of the Voting Rights Act. See 42 U.S.C. § 1973c (preclearance submission by state's chief legal officer); Cal. Const. Art. V, § 13 (Attorney General state's chief law officer). Where conversion of a judgeship necessitates redistricting, Section 68083.6 does not demand that the Attorney General seek preclearance of the conversion and the redistricting simultaneously, but does not preclude that approach.
>
> Section 68083.6 does not address the consequences of a failure to obtain preclearance. If a federal court determines that conversion of a judgeship and redistricting of remaining municipal court districts violates the Voting Rights Act, any remedial voting arrangements are subject to court order.

SECTION 2 OF THE VOTING RIGHTS ACT

Introduction

Section 2 of the Voting Rights Act prohibits voting systems that result in "denial or abridgement of the right of any citizen of the United States to vote on

account of race or color . . . ." 42 U.S.C. § 1973(a). Like the preclearance requirement, Section 2 applies to judicial elections. *See* Chisom v. Roemer, 501 U.S. 380 (1991); Houston Lawyers' Ass'n v. Attorney General, 111 S. Ct. 2376 (1991). Unlike the preclearance requirement, it applies to all jurisdictions.

As amended in 1982, proof of intentional discrimination is not essential to establish a Section 2 violation. Rather, courts are to focus on the effect of a voting system, not the motivations of those instituting it.

Thus, a Section 2 violation is shown if "based on the totality of the circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a [protected class] in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice." 42 U.S.C. § 1973(b). Importantly, however, nothing in Section 2 establishes "a right to have members of a protected class elected in numbers equal to their proportion in the population." *Id.*

Facial Challenge to the New Unification Statute

The new unification statute, Government Code Section 68083, does not appear to violate Section 2 on its face. Under Section 68083, it is not a foregone conclusion that there will be changes in California's judicial elections. Section 68083 merely directs the Governor to convert a municipal court judgeship to a superior court judgeship upon making certain findings. There is no assurance that any conversions will occur, much less that conversions adversely affecting minority voting rights will occur. It therefore seems unlikely that courts will hold that Section 68083 facially violates Section 2.

Challenges to Particular Applications of Section 68083

Particular applications of Section 68083 may be vulnerable to challenge under Section 2. In large counties, such as Alameda, Fresno, Los Angeles, and San Diego, conversion of a municipal court judgeship to a superior court judgeship may deprive minority voters of representation by diluting their voting strength. While a minority group may have sufficient cohesiveness and numbers to elect a municipal court judge in a municipal court district, the group may not be numerous enough on a countywide basis to elect a superior court judge. Vote dilution may also occur if conversion of a judgeship results in municipal court redistricting.

Other times, however, conversion of a judgeship may have no impact at all on minority voting strength. That would be true, for instance, when a minority group is evenly spread across a county, rather than concentrated in a particular municipal court district.

Certainly, application of Section 2 to judgeship conversions pursuant to the new unification statute will be highly fact-specific, depending on such factors as the geographic and political cohesiveness of the minority group involved, the group's potential to elect candidates, and numerous other factors. *See, e.g.*, Thornburg v. Gingles, 478 U.S. 30 (1986). Although multi-member political districts and at-large election schemes are classic means of abridging minority voting rights, they are not per se invalid. Rather, "[m]inority voters who contend that the multimember form of districting violates Section 2 must prove that the use of a multimember electoral structure operates to minimize or cancel out their ability to elect their preferred candidates." *Id.* at 48.

Because the impact of judgeship conversions on voting rights will be so fact-specific, it is difficult to make general predictions regarding the potential success of Section 2 challenges to such conversions. But the current uncertainty in voting rights jurisprudence is an even greater impediment to assessing the interplay between Section 2 and the new unification statute.

Uncertainty in Voting Rights Jurisprudence

The Voting Rights Act stops short of requiring proportional representation of minority groups. But just how much minority voting strength is required? To what extent can race be considered in achieving that degree of voting strength? Are the answers the same in preclearance jurisdictions as in other jurisdictions?

The United States Supreme Court has struggled greatly with those issues, but has been unable to provide clear guidance. Its most recent decision, Miller v. Johnson, 115 S. Ct. 2475 (1995), exacerbates what was already a confusing situation. *Miller's* impact on local litigation concerning election of Monterey municipal court judges vividly illustrates the degree of confusion.

The Monterey case involves a preclearance challenge to Monterey's consolidation of its municipal court districts. Prior to issuance of the *Miller* decision, the three-judge district court hearing the case ruled that the consolidation violated the Voting Rights Act. The court ordered the county to implement a new election scheme, and ordered an interim election using districts. Just weeks before issuance of *Miller*, the interim election was held, and

one black and one Hispanic were elected. After *Miller* was decided, however, the court did an abrupt about-face. It ordered the newly elected judges to stand election again in a few months, this time in at-large districts. The court explained that the districts used in the interim elections may have been unconstitutional, because race was a significant factor in drawing those districts, and *Miller* casts doubt on the validity of such an approach. *See Monterey Muni Judges Must Run Again*, San Francisco Daily Journal, November 28, 1995, at 1, 7.

Miller definitely includes language suggesting a color-blind approach to the federal Constitution. The case involved an equal protection challenge to Georgia's congressional redistricting plan, which was designed to maximize black voting strength in order to obtain federal preclearance. The Court held that because race was the predominant motivating factor in preparation of the plan, the plan was subject to strict scrutiny. 115 S. Ct. at 2490. The Court further determined that the plan failed to satisfy strict scrutiny, in that neither Georgia's interest in obtaining preclearance, nor the policy of maximizing minority voting strength, was a compelling interest. *Id.* at 2491-94. The Court went on to comment:

> The Voting Rights Act, and its grant of authority to the federal courts to uncover official efforts to abridge minorities' right to vote, has been of vital importance in eradicating invidious discrimination from the electoral process and enhancing the legitimacy of our political institutions. Only if our political system and our society cleanse themselves of that discrimination will all members of the polity share an equal opportunity to gain public office regardless of race. As a Nation we share both the obligation and the aspiration of working toward this end. The end is neither assured nor well served, however, by carving electorates into racial blocs. . . . It takes a shortsighted and unauthorized view of the Voting Rights Act to invoke that statute, which has played a decisive role in redressing some of the worst forms of discrimination, to demand the very racial stereotyping the Fourteenth Amendment forbids.
>
> [114 S. Ct. at 2494.]

Some have interpreted *Miller* "as the death knell for most Voting Rights cases." *Monterey Muni Judges Must Run Again*, San Francisco Daily Journal, November 28, 1995, at 1. Indeed, *Miller* arguably means that Section 2 of the Voting Rights Act is unconstitutional. If the equal protection clause demands strict scrutiny of race-based districting, perhaps that standard cannot ever be

satisfied where there is no history of purposeful discrimination, as in jurisdictions not subject to preclearance.

But that is by no means the only possible conclusion regarding where the Court's Voting Rights jurisprudence is going. *Miller* involved Section 5, not Section 2. Those interpreting the case broadly to all but forbid consideration of race in drawing political boundaries may be going too far in regarding *Miller* as an endorsement of the color-blind Constitution. Indeed, *Miller* was only a 5-4 decision, with Justices Ginsburg, Stevens, Breyer, and Souter strongly dissenting. And although Justice O'Connor joined the Court's decision, she also authored a concurring opinion in which she distanced herself from the Court to some extent:

> Application of the Court's standard does not throw into doubt the vast majority of the Nation's 435 congressional districts, where presumably the States have drawn the boundaries in accordance with their customary districting principles. That is so even though race may well have been considered in the redistricting process.
> [115 S.Ct. at 2497 (O'Connor, J., concurring).]

As some have commented, then, it is anyone's guess what future Voting Rights cases will conclude and what the implications will be for judgeship conversions pursuant to the new unification statute. On the one hand, courts may decide that a particular conversion violates the Act by diluting minority voting strength without sufficient justification. Although the state has an interest in equating a judge's political base with the judge's jurisdiction, the strength of that interest is unclear. *See* League of United Latin American Citizens v. Clements, 999 F.2d 831 (5th Cir. 1993) (en banc); Nipper v. Smith, 39 F.3d 1494 (11th Cir. 1994) (en banc). Similarly, while the state has an interest in furthering the administration of justice, that interest may also be insufficient to justify vote dilution. With cross-assignment of judges and other personnel readily available under trial court coordination plans, will conversion of a judgeship really have any significant, much less overriding, impact on the administration of justice?

On the other hand, however, it is perhaps equally likely that courts will reject most future Voting Rights challenges and strike down Section 2 as amended in 1982. Race-neutral voting changes, such as a switch from district elections to countywide elections due to a judgeship conversion, may readily survive attack. At the same time, attempts to alleviate societal discrimination by maximizing minority voting strength, such as may occur in redrawing municipal court

districts following a judgeship conversion, may be invalidated under the equal protection clause.

At best, it is difficult to predict which of these scenarios will prevail. The staff thinks it wisest not to offer any opinion in that regard.

Options Regarding the New Unification Statute

In light of the uncertainty in the law, what, if anything, should the Commission do to help insulate the new unification statute from Voting Rights Act challenges? Options include the following:

(1) **Do nothing, just wait to see how things develop.** There is a lot to be said for this approach. The Government Code already incorporates a severability provision, so if a particular application of Section 68083 is invalidated, the remainder of the statute and its applications may nonetheless survive. See Gov't Code § 23 ("If any provision of this code, or the application thereof to any person or circumstance, is held invalid, the remainder of the code, or the application of such provision to other persons or circumstances, shall not be affected thereby").

(2) **Attempt to Provide Statutory Guidance Regarding Dilution of Minority Voting Rights or Other Voting Rights Considerations.** Another possibility would be to try to fashion a statute giving the Governor guidance as to the appropriate weight to accord vote dilution or other Voting Rights considerations in deciding whether to convert judgeships pursuant to Section 68083. The staff thinks such an approach would be fraught with peril and strongly recommends against it. The Governor is already bound to uphold the federal Constitution and law, and Section 68083 does not allow him to convert a judgeship unless the conversion will further the administration of justice. Inherent in those restrictions is a demand that the Governor only convert a judgeship where conversion is consistent with the equal protection clause and constitutional requirements of the Voting Rights Act. Given the uncertainty in Voting Rights jurisprudence, it seems futile and potentially counterproductive to attempt to delineate that demand in more concrete terms.

(3) **Add Statutory Savings Clause.** The potential for successful Voting Rights challenges to judgeship conversions is an added reason for having a statutory savings clause such as the one proposed in Memorandum 95-77. The staff recommends this as a means of protecting against the chaos that could occur if a conversion is successfully challenged under the Voting Rights Act and litigants subsequently seek to undo an appointee's acts.

(4) **Require the Governor to Make Written Findings to Support a Conversion Decision.** In light of the potential for Voting Rights litigation, should the Governor have to memorialize his or her rationale for converting a judgeship pursuant to Section 68083? Would that help ensure that only defensible conversions occur? Would it make it easier to defend conversion decisions against Voting Rights challenges? The Governor may well have objections to a statute along these lines. More importantly, the staff does not think it would have much of an effect.

(5) **Amend the Constitution along the Lines Proposed in the Commission's Report on SCA 3.** In its report on SCA 3, the Commission addressed Voting Rights concerns by recommending an amendment of Article VI, § 16(b) of the California Constitution. The Commission might consider proposing a similar amendment here:

> (b) Judges of other courts shall be elected in their counties or districts at general elections except as otherwise necessary to meet the requirements of federal law, in which case the Legislature, by two-thirds vote of the membership of each house thereof, with the advice of judges within the affected court, may provide for their election by the system prescribed in subdivision (d) or by other arrangement. The Legislature may provide that an unopposed incumbent's name not appear on the ballot.

Such a proposal would involve downsides similar to those discussed in Memorandum 95-77 with respect to amending the Constitution to "provide for" the number of superior and municipal court judges. It nonetheless may be worth pursuing.

RECOMMENDATION

Based on its initial analysis of the Voting Rights considerations, the staff tentatively recommends option (3) (statutory savings clause) and perhaps also option (5) (constitutional amendment). Input from the Judicial Council and other sources may shed further light on the complicated Voting Rights issues and suggest better alternatives.

Respectfully submitted,

Barbara S. Gaal
Staff Counsel

APPENDIX 16

9th Cir. Civ. Case No. _____
USDC Case No. CV12-00717-JAM-JFM

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

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

Petitioners,

v.

UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF CALIFORNIA,

Respondent,

JERRY BROWN in his Individual and Official Capacity as Governor of the State of California and in his Individual and Official Capacity as Former Attorney General of the State of California; KAMALA HARRIS in her Individual and Official Capacity as Current Attorney General of the State of California; COMMISSION ON JUDICIAL PERFORMANCE OF THE STATE OF CALIFORNIA as a state agency and constitutional entity, ELAINE HOWLE in her Individual and Official Capacity as California State Auditor and DOES 1-10.

Real Parties In Interest.

From the United States District Court for the Central District
The Honorable John A. Mendez

PETITION FOR SUPERVISORY AND/OR ADVISORY MANDAMUS PURSUANT TO 28 U.S.C. § 1651, PETITION FOR MANDAMUS AND/OR PROHIBITION OR OTHER APPROPRIATE RELIEF

NINA RINGGOLD, Esq. (SBN #133735)
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Telephone: (818) 773-2409

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I. INTRODUCTION

Petitioners are all current clients of the Law Office of Nina Ringgold.[1] They are racial and/or language minorities and persons who have historically had limited access to the courts of the State of California. (App. 9.77-78).[2] This writ petition is necessary due to the clear error and extraordinary prejudice by the January 23, 2013 order, January 23, 2013 judgment, and February 8, 2013 order of Respondent United States District Court for the Eastern District. The error cannot be corrected by appeal from a final judgment and *all clients* will suffer irreparable harm without the relief sought herein. Petitioners have concurrently filed a motion for an immediate stay and injunction pending disposition of this writ petition.

Petitioners filed an action on March 21, 2012 in the proper venue of the Eastern District seeking a monitored special judicial election in the local municipal districts which existed prior to trial court unification in the County of Los Angeles. They are requesting that a three judge court be appointed to set forth the procedures which comply with the Voting Rights Act of 1965 as amended (43 U.S.C. § 1973), the Fourteenth Amendment, and the Fifteenth Amendment. (App. 9.103 ¶78). Trial court unification changed judicial elections from municipal district based voting to county-wide voting. It was intended to and did severely diminish the voting rights of racial and language minority voters. (Id., App. 9.89-90).

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[1] See 9.74, 54.2502, 55.2628.

[2] The citation method is "exhibit number. bates stamp number".

Petitioners contend that constitutional vacancies of judicial office mandated by the state constitution have occurred. The California Legislature secretly enacted an uncodified immunity provision concerning an existing unconstitutional condition which has not been disclosed to the general public. (Section 5 of Senate Bill x211 ("SBX2 11"). This provision forces litigants in pending proceedings to, involuntarily and without notice, waive rights guaranteed under the United States Constitution and federal law. Petitioners do not and will not consent to such waiver of their federal rights. (App. 9.85-94). Based on claims of immunity under SBX2 11 and claims of Eleventh Amendment immunity petitioners have demonstrated irreparable harm. California Pharmacists Ass'n v. Maxwell-Jolly, 563 F.3d 847 (9th Cir. 2009).

There are two cases either pending or will shortly arrive in the United States Supreme Court which petitioners claim could directly impact their case: Shelby County v. Holder, 679 F.3d 848 (D.C. Cir. 2012) and Noel Canning v. National Labor Relations Board, No. 12-1115, 12-1153, 2013 WL276024 _F.3d_, 194 LRRM 3089 (D. C. Cir. 2013 Jan. 25, 2013). Shelby addresses the issue of whether Congress acted lawfully when it reauthorized Section 5 of the Voting Rights Act in 2006. Noel Canning held that appointments to the NLRB by the President of the United States were invalid under the Recess Appointment Clause of the Constitution, Article II, Section 2, Clause 3. It vacated an order of the NLRB because the unconstitutional appointments created a vacancy of office.[3] Although petitioners are not challenging appointments made by the President, they

[3] Decision at App. 14.404-451.

are claiming a similar legal theory as to constitutional vacancies of judicial office (albeit arising in a state context and directly relating to federal law concerning racial equality and the Voting Rights Act).

The California Court of Appeal for the Fourth Appellate District in Sturgeon v. County of Los Angeles, 167 Cal.App.4th 630 (Cal. 2008) held that the compensation of the judges of the Superior Court of the County of Los Angeles was unconstitutional. It is undisputed that the County pays the judges of the courts of record in the County of Los Angeles a salary, retirement benefits, and other benefits as county employees in addition to their state salary, retirement, and benefits. The judges of the courts of record are also deemed county officials covered by a public bond paid for by the County. (App. 9.88 ¶26). Section 5 of SBX2 11 is an attempt to fix the existing unconstitutional condition that created judicial vacancies of office in the County of Los Angeles and other counties. (Cal. Const. Art. VI § 17 and § 21). [4] Petitioners contend that the actions of the State Legislature required a constitutional revision or amendment of the state constitution with mandatory participation of the electorate. (App. 9.85 ¶17, 9.91-94 ¶33-38). The unconstitutional compensation scheme, which began with trial court unification, was intended and designed to dilute the voting strength of language and racial minorities in judicial elections. The California Law Revision Commission warned *prior to trial court unification* that there could be serious violations of section 5 and section 2 of the Voting Rights Act

[4] See App. 9.148, Rooney v. Vermont Investment Corporation, 10 Cal.3d 351 (Cal. 1973).

particularly in large Counties such as Los Angeles. (App. 9.89-90 ¶29, 9.181-189). [5]

Petitioners are not concerned about judicial pay like the taxpayer plaintiffs in Sturgeon. Unlike the Commission on Judicial Performance of the State of California ("Commission"), they are not raising issues of judicial discipline. The Commission on Judicial Performance of the State of California has twice rendered opinions that section 5 of SBX2 11 is unconstitutional. (App. 9.90-94). Different than the Commission and the Sturgeon taxpayer, petitioners are expressly raising issues of federal law pertaining to the right of racial equality and they claim that each litigant must have disclosure of the existing unconstitutional condition and vacancy of office. Particularly in the present condition of the state courts, litigants should not be involuntarily forced to waive rights under the United States Constitution and federal law.[6] Petitioners seek to exercise their right and power to restore diversity in the judiciary and to accountability for the failure to comply with the state constitution.[7] Based on their viewpoint and

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[5] California Law Revision Commission, Staff Memorandum 95-79, *Trial Court Unification: Voting Rights Act*

[6] I.e. presently there is an unavailability of court reporters, interpreters, proper ADA services; and other essential and basic services that have a disparate impact on racial and language minorities who rely on a public and properly funded courthouse) (App. 9.93-94 ¶ 37-38, 9.102-105, 40.1994-1995, 40.2023 ¶11).

[7] As to the clients of the Law Office that are citizens of a different state, the hidden immunity forces an involuntary waiver of rights under the United States Constitution and federal law and functions as a proceeding by the

effort to freely speak about government accountability, petitioners have encountered extraordinary blacklisting and retaliation in violation of the First and Fourteenth Amendment including by use of the California Vexatious Litigant Statute against persons and/or entities never determined to be vexatious litigants or when the mandatory statutory due process motion has never been filed in a state trial court. (App.9.95-100, 11.245-246 ¶11-12, 14.401-403).

The district court has improperly claimed it cannot rule on petitioners' motion for preliminary injunction because it lacks subject matter jurisdiction because two of the clients of the Law Office, Nina Ringgold in the capacity as a named trustee and executor of an estate and Justin Ringgold-Lockhart were required obtain permission to file the complaint from a specific judge in a different district. Petitioners contend no such permission was required and the rule devised by Judge Mendez of the Eastern District is not a function of subject matter jurisdiction. They also contend that this case can hardly be viewed as being about a single trust (the Aubry Family Trust), and as shown by the complaint itself and the accompanying affidavit concerning all clients of the Law Office who are engaged in litigation in a variety of areas in the state court. The order of the district court is erroneous as a matter of law, impairs petitioners' valid interest in group association in advancing their viewpoint on the issues in the present litigation. Since the clients of the Law Office have been unable to obtain a hearing on the motion for preliminary injunction when there is

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State against citizens of another state. See 28 U.S.C. § 1251 (with original jurisdiction in the Supreme Court). (App. 11.200:16-201:8).

an undeniable involuntary waiver in the state court of rights under the United States Constitution and impairment of rights of racial equality under federal law, they removed their state court cases to the federal court under the civil rights removal statute.[8]

II. STATEMENT OF RELIEF SOUGHT

Petitioners are requesting an order directing the district court to enter an order granting the motion for preliminary injunction. The also request that that this court appoint special counsel from the office of the inspector general to act as public trustee in the action due to unwaivable conflicts of interest of the Office of the State Attorney General. (App. 40.2005-2007, 40.2022-2023, 19.539-540); and that this court direct the district court to vacate the order and judgment dated January 23, 2013 and order dated February 8, 2013.

Judge Mendez did not view subject matter jurisdiction as based on Article III § 2 or the Congressional enabling statutes of 28 U.S.C. § 1330-1369 and 28 U.S.C. § 1441-1452. Instead, he defined subject matter jurisdiction:

- As a function of an administrative order of a judge of a different district that was entered after jurisdiction had passed to this court. See Griggs v. Provident Consumer Discount Co., 459 U.S. 56, 58 (1982) (filing a valid notice of appeal transfers jurisdiction over the matters properly appealed to the court of appeals).[9]

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[8] 28 U.S.C. § 1443.

[9] (App. 30.844-845 (RJN #14-17), 30.847-850 (RJN #21, 23-25), 30.851-852 (RJN #25), 32.1230-1265, 32.1276-1338, 33.1435-1482, 33.1509-1510.

- As a function of the Local Rules the Central District rather that the Local Rules that exist in the Eastern District where the case is pending, and .[10]

- In a manner that impairs petitioners' First Amendment rights and unduly limits access to the court, and is a functional denial of the urgent injunctive relief needed.

The prior restraint by the January 23, 2013 order and the indication of the need for pre-filing authorization in a manner that directly and adversely impacts each client of the Law Office has departed from the accepted and usual course and violates the substantive rights of all clients. The Local Rules of the Eastern District provide no notice that all clients of a Law Office would be subjected to the rules of a different district and in a manner which impairs their substantive rights.

III. STATEMENT OF FACTS

A. Filing The Action By All Law Office Clients

Petitioners filed this action as a group because they have common question of law and fact. They have valid reasons for their group association in pressing their viewpoint in an important and current public debate. See Perry v. Schwarzenegger, 591 F.3d 1147, 1154, 1159 (9th Cir. 2010)("effective advocacy of both public and private points of view, particularly controversial ones, in undeniably enhanced by group association"), NAACP v. Alabama, 357 U.S. 449, 460 (1958), NAACP v. Button, 371 U.S. 415 (1963), NAACP v. Patterson, 357 U.S. 449 (1958), Moss v. U.S. Secret Service, 675 F.3d 1213 (9th Cir. 2012) (government may not regulate speech based on the motivating ideology or opinion or perspective

[10] See Request for Judicial Notice ("RJN") filed herewith.

of the speaker nor favor some viewpoints or ideas at the expense of others). (See App. 40.1993-1995, 2015-2022). Petitioners filed their complaint on March 21, 2012. This is the same day that Executive Committee of Los Angeles Superior Court for the County of Los Angeles entered an emergency order suspending its local rules. They subsequently filed a first amended class action complaint. (App. 54.2504-2626).

B. Denial Of Motion For Temporary Restraining Order

On July 25, 2012 petitioners filed a motion for temporary restraining order and protective order as well as for an appointment of special counsel from the Office of the Inspector General to act as public trustee. On July 25, 2012 the requested temporary relief was denied and a hearing was set on the motion for preliminary injunction. On September 11, 2012 this court denied a writ of mandamus and on October 18, 2012 dismissed an appeal for lack of jurisdiction as to the July 25, 2012 order. (App. 45.2262-2263, 46.2264-2265, App. 48.2267-2265, 53.2502-2503). (Writ of Mandamus No. 12-7250, Appeal No. 12-16828).

C. Proceedings Following Denial Of The Temporary Restraining Order That Function To Bar Determination Of The Motion For Preliminary Injunction Of All Clients Of The Law Office

Petitioners re-filed their motion as a motion for preliminary injunction on October 26, 2012 and a request for judicial notice in support of their motion. On October 29, 2012 the district court denied their request to hear the motion on shortened time. (App. 36.1928-42.2252, 19.533-547, 18.512-19.547, 30.835-852). In opposition to the motion real parties argued in part that *all* clients of the Law Office had violated a pre-filing order of Judge Manuel Real because Nina Ringgold and Justin Ringgold-Lockhart

were vexatious litigants. Or put another way, that clients associated with these persons or the Law Office should be barred immediate injunctive relief. (App. 29.802:14-18, 34:1533 "The request for preliminary injunction should be denied because *Plaintiffs* failed to comply with Judge Real's pre-filing order…."). The December 6, 2011 administrative order that is presently on appeal has nothing to do with the attorney practicing her profession, persons represented by counsel in proceedings in a different district or existing clients of a Law Office who have nothing to do with the order. The motion for preliminary injunction identifies how clients of the Law Office were adversely impacted by the challenged state statute and the Office of the Attorney General at all times was acutely aware of the particularized harm to the Law Office clients based on service of declaration of clients ASAP Copy and Print and Ali Tazhibi. (App. 11.215:16-26, 11:238:8-19,14.401-403, 40.2021-2023, 2024:19-2025:4, 2026:9-13, 2027:17-24, 2029:12-2033:19, Affidavit herein).

Real parties filed motions to dismiss and a request for judicial notice. They did not argue that the December 6, 2011 order of Judge Real of the Central District defined the subject matter jurisdiction of the district court. (App. 50.2326-2327, 51.2345-2346). Petitioners opposed real parties' request for judicial notice. (App. 30.822-836). Governor Jerry Brown ("Brown"), Attorney General Kamala Harris ("Harris"), and the Commission filed a motion for sanctions against Nina Ringgold and Justin Ringgold-Lockhart claimed that they required permission of Judge Real to file the case and falsely claiming that Brown and Harris had previously been sued in the state court and made other erroneous contentions. (App. 49.2282:19-20,

24.604-608) All plaintiffs filed opposition and countered with a request for sanctions in the amount of $35,770 to cover their expenses. (App. 24.594:24-595:9, 24.614-616, 26.666-669, 11.220-222, 227-228, 238).

On January 3, 2013 the district court ordered all motions submitted without appearance and without argument and it did not conduct a hearing on any motion. (App. 19.548-549).

On January 15, 2013 unable to obtain injunctive relief plaintiff client ASAP Copy and Print and Ali Tazhibi filed a petition for writ of certiorari in the United States Supreme Court from orders in the proceedings in the state court. These clients, like others, have never been determined to be a vexatious litigant or appeared in any proceedings in propria persona. They were subjected to a pre-filing injunction and sealing of evidence dispositive to their case in the middle of pending litigation based on its association with the Law Office. (App. 13.268-318, 40.2028-2033).

On January 16, 2013 the remaining client plaintiffs filed a petition for writ of certiorari in the United States Supreme Court as to the October 18, 2012 order of this court which dismissed the appeal from the July 25, 2012 order denying the temporary restraining order and protective order. (App. 13.319-360).

While the writs of certiorari were pending, on January 23, 2013 the district court entered an order entitled "order dismissing *case* for lack of jurisdiction". (App. 3.10). It granted real parties' motion to dismiss based on "lack of subject matter jurisdiction over the *action*" and the order indicated that it did not reach the merits of the action. (App. 3.21:20-22-27). The order denied leave to amend as to a segment of the Law Office clients

specified in the representative government claim filed with the California Victim Compensation and Government Claims Board. (See App. 54.2514:1-2516:2, 2578-2607).[11] While indicating there is no ruling on the merits of the litigation the order refers to the claims under the Voting Rights Act an "existential challenge" and erroneously indicates by reference to a hearsay statement in an unpublished decision that Nina Ringgold had been removed as trustee of the Aubry Family Trust. (App. 1:12:7-9, 3.16:20-22 Compare 11.214:2-215:28, 14.452-463, App.24.601:11-602:9, 30.827:12-25).[12] The order grants the motion for sanction in the amount of $9,520.00. (App. 3.4:27-5:13, 3.22, 24.592-712). The district court entered a judgment as to the entire case. (App. 2.8).

On January 24, 2013 the California Supreme Court decided the case of Aryeh v. Canon Business Solutions, 55 Cal.App.4th 1185 (2013). Petitioners ASAP Copy and Print and Ali Tazhibi contend that as a form of viewpoint discrimination, retaliation, and blacklisting they were barred use of dispositive evidence in their case through application of CCP § 391.7 and by

[11] The government claim was filed on June 30, 2011 and denied on September 23, 2011. (App. 11.218:1-12 & fn10, 11:22:8-15, 32.1213, 54.2606-2607).

[12] The district court improperly took judicial notice of unspecified hearsay matters. See Augustine v. United States, 704 F.2d 1074, 1077 (9th Cir. 1983). (See also App. 11.222-225, 30.822-836).

use of an automatic sealing order to the detriment of small immigrant merchants.[13] (See App. 11.200:3-16 & fn 2, 11.245:1-246:16).

On January 25, 2013 the Court of Appeal for the District of Columbia filed an unanimous decision in Noel Canning v. National Labor Relations Board.

On January 31, 2013 petitioners filed an ex parte application (1) for stay pending disposition or petition for writ of certiorari or other review, (2) for reconsideration and/or to vacate, or for other relief (including leave to amend); alternatively, for (4) stay and certification under Rule 54 (b) and/or 28 U.S.C. § 1292. The motion also renewed the request for temporary restraining order and/or preliminary injunctive relief due to continuing irreparable harm pendent lite. In part, petitioners requested, without waiving any objection, that the first amended complaint be referred to the Chief Judge of the Eastern District to determine if a pre-filing requirement had been satisfied or needed in the district under its Local Rules and they requested that they be provided with notice of the procedure and standard applicable to the Eastern District. They also requested a decision on the request for appointment of special counsel, identification of a procedure for ruling on the motion for preliminary injunction, and a ruling on *their* request for sanctions. (App. 11.220-222, 227-228, 238).

On February 8, 2013 the district court denied petitioners' ex parte application and it imposed a sanction of $1,000 and clarified it had denied

[13] Jashmid Aryeh of ABC Copy and Print and Ali Tazhibi of ASAP Copy and Print are not related. However, their cases have similar claims which were filed at or near the same time except the case of Aryeh v. Canon Business Solutions was filed with class based allegations.

petitioners' counter request for sanctions in the amount of $35,770. (App. 1.0-6)

On February 13, 2013 a second amended complaint was filed by the Law Offices of Nina Ringgold and all current clients. (App. 9.73-189). This time the representative government claim in the complaint was by petitioner client Karim Shabazz. (App. 9.83-85, 149-170).

On February 17 & 19 , 2013 petitioners Ringgold and Lockhart submitted documents under seal and notice of their financial inability to pay the sanction amount. (App. 5.52-8.72). See Haynes v. City and County of San Francisco, 688 F.3d 984 (9th Cir. 2012).

On February 22, 2013 all clients of the Law Office, including Justin Ringgold-Lockhart and Nina Ringgold, Esq. in her capacity and named trustee of the Aubry Family Trust and named executor of the estate of Robert Aubry, filed a protective notice of appeal. (App. 4.23-51).

On March 25, 2013 the petition for writ of certiorari in *Ringgold et al. v. Brown et al.* was denied. (Case No. 12-905). On April 15, 2013 the petition for writ of certiorari in *ASAP Copy and Print et al v. Canon Business Solutions et al.* was denied. (Case No. 12-962). Both petitions could only raise the issue of the July 25, 2012 temporary restraining order due to the inability to obtain a ruling on the fully briefed motion for preliminary injunction.

D. General Background On The Vexatious Litigant Issue And Its Impact On Clients Of The Law Office

1. Challenged Vexatious litigant Determination In State Court.

Solely in their capacity as trustees, Nina Ringgold and Mary Louella Saunders filed separate petitions in the state court with respect to a private

family inter vivos trust. Their petitions successfully removed another co-trustee who had misappropriated funds. To avoid any future misappropriation they obtained a final order confirming their appointment as specified in the trust instrument as trustees which is now governed by the doctrine of res judicata. No challenge or attack was made of these orders dated October 14, 2003. (App. 14.452-458, 462, 30.839-840 (RJN #6), 31.1135-1140). There has never been a petition filed to remove Nina Ringgold as trustee and Mary Loeulla Saunders is deceased. Without a petition to remove any trustee, and although the trust is not subject to court supervision, the state court appointed an additional trustee through an order which specifies that he is not required to have the mandatory statutory bond and is non-appealable. This person has filed reoccurring petitions to liquidate the trust without notice to heirs and beneficiaries to primarily pay his fees.

2. Non-Existent Writ Proceeding And Impact On Clients Of The Law Office

Completely unaware of an existing controversy in the probate department, in 2007 Ringgold as trustee filed a verified constitutional rights violation petition. In part she claimed that the state procedures used were divesting African American families of property without notice and without satisfaction of the mandatory bonding requirement. When she filed an appeal, solely appearing as a trustee on an issue relating to an accounting, an order was issued under a caption as if there was an original proceeding or writ proceeding involving the Superior Court of the County of Los

Angeles. The order required Ringgold to show cause why she should not be deemed a vexatious litigant and she responded accordingly. (App. 30.836-838 (RJN #3-5), 30.843-844 (RJN# 13)). The order to show cause provided no listing of cases, or explanation of what was at issue, and the statute required a noticed motion filed in the trial court by a defendant. (App. 30.837-838 (RJN# 4). When a vexatious litigant issue is raised in such a manner and in the first instance in the state appellate court there is no right of appellate review similar to persons where the mandatory statutory due process procedures are engaged. See Griffin v. Illinois, 351 U.S. 12 (1956) (state procedures which adversely impact appellate review). The California Vexatious Litigant Statute does not apply to persons represented by counsel. As required by state law Nina Ringgold in the capacity as trustee was required by law to appear through her Law Office in a legal proceeding. See Ziegler v. Nickel, 64 Cal.App.4th 545 (Cal. 1998)(a trustee may not appear in a court proceeding unless represented by an attorney), Weissman v. Quail Lodge, Inc., 179 F.3d 1194, 1164 (9th Cir. 1999) (vexatious litigant order does not apply to attorneys).[14]

3. Discovery Of The Probate Task Force

It was later discovered that both trial judge and appellate justice involved in the Aubry Family Trust were involved in a Probate Task Force formed by the California Judicial Council specifically to address large number of grievances in the probate department and in response to a highly

[14] On May 1, 2011 the California Legislature rejected Senate Bill 603 which attempted to expand the California Vexatious Litigant Statute to encompass attorneys.

critical investigative series of articles in the Los Angeles Times entitled *Guardians for Profit*.[15] It is now understood that timing of the constitutional rights violation petition filed in 2007 conflicted with the timing of the release of the recommendations of the Probate Task Force and the petition of the Law Office raising federal constitutional claims was not consistent with the recommendations. Thereafter, clients of the Law Office were deemed or treated as vexatious litigants whether or not a statutory due process motion had been filed to determine such status. (App. 9.96-97). This treatment was based on the client's association with the Law Office and was brought to bear irrespective of whether the client's case was pending in the probate department. [16]

4. Admission by Office Of The Attorney General And Entry Of December 6, 2011 Order After Central District Divested Of Jurisdiction

In February 2011 Nina Ringgold and Justin Ringgold-Lockhart filed an action in the Central District, in part seeking a declaration with respect to

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[15] Los Angeles Times investigative series *Guardians for Profit*, November 13-16, 2005, December 27, 2005. (App. 30.835-839 (RJN# 1-2), See also In re Estate of Claeyssen, 161 Cal.App.4th 465 (Cal. 2008) (holding that probate department graduated filing fees as a percentage of the estate were unconstitutional). Some grievances concerned the fact that the graduated filing fees were used to pay for the public employment that the Sturgeon case found to be unconstitutional.

[16] i.e. See Client ASAP Copy and Print App. v5 14.782-786, Client Cornelius Turner (App. 40.2028-2033), Client Nathalee Evans (App. 40.2027:17-25), filing under protest by Client Justin Ringgold- Lockhart who on April 21, 2011 had not been deemed a vexatious litigant. (App. 30.841-842 (RJN# 8-10), 40.2026:9-14).

the application of CCP § 391.7. Brown and Harris filed an answer conceding a major component of the challenge, i.e. that a trustee by law had to appear through a Law Office under the requirement of Ziegler. (App. 30.843-844 (RJN# 13), 32.1220 ¶28). Judge Real determined that the claims for declaratory and injunctive relief would proceed. (App. 30.843 (RJN#12, 32.1210-1213). After determining that the answer filed was favorable to the statutory challenge, without notice Judge Real entered a November 7, 2011 sua sponte order that specified that Ringgold and Lockhart were found to be vexatious litigants in the Central District. Once again no list of cases was provided or conduct identified in the order to show cause. At this point Lockhart had never been determined a vexatious litigant in any court and to this date he has never filed any case in the United States in propria persona. (App. 30.844 (RJN#14), 32.1230-1231). An appeal was filed the next day as to this order, with an order dated November 4, 2011 that denied injunctive relief, and other final orders. (App. 32.1232-1235 (RJN #15)). Despite the lack of jurisdiction, Judge Real conducted an order to show cause proceeding in which no other parties in the case participated including Brown and Harris. He then entered the December 6, 2011 order.[17] Although the December 6, 2011 order specifies that it was pursuant to 28

[17] Brown and Harris did not participate in the briefing in the appeal. (Appeal No. 11-57231). They do not have a cognizable interest in the appeal and now are attempting to change position or theories as to the adversely impacted clients of the Law Office. See Molski v. Evergreen Dynasty, 500 F.3d 1047, 1056 (9th Cir. 2007)(no justiciable dispute because person did not participate in the proceeding or motion in the District Court).

U.S.C. 1651, since the appeal divested the Central District of jurisdiction, there did not exist any jurisdiction which needed to be "aided".

5. Use Of December 6, 2011 Order Against Clients Of Law Office Involved In Class Action Complaint

Prior to entry of the December 6, 2011 order, the filings of Lockhart in the state court were held in abeyance, even though he had never been deemed a vexatious litigant in any court and not in propria persona. The Presiding Judge of the Los Angeles Superior Court for the County of Los Angeles (prior to Judge Real's December 6, 2011 order) had granted leave to file Lockhart's motions (although leave of court was never required). (App. 32.1194-1196). Like other clients of the Law Office impacted in the same manner, once leave was granted, still their pleadings were not placed on calendar. On appeal from orders gained by adversaries continuing in the proceeding , Lockhart was then deemed a vexatious litigant in the first instance in the state appellate court. This was in part based on the use of Judge Real's December 6, 2011 order.[18] Again, there was no list of cases provided, no statutory due process motion, and there does not exist a right to appellate review.

The January 23, 2013 order in a similar manner imposes a further prejudice to all clients of the Law Office who are uninvolved with the December 6, 2011 order. This is because it functions to bar the determination of the fully brief motion for preliminary injunction by use of the December 6, 2011 order when urgent relief is required.

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[18] See CCP 391 (b)(4) which allows a vexatious litigant determination to be made in the state court if a person has been declared to be a vexatious litigant in any federal court.

E. Differences In The Local Rules Of The Central And Eastern District

The Local Rules of the Eastern District adopted by the Judges of that court, after the notice and comment period provided by 28 U.S.C. § 2071 (b), do not have a provision dealing with alleged vexatious litigation and follow the applicable law of this Circuit. At point of filing the initial complaint to the time of filing this petition the Local Rules of the Eastern District do not adopt or incorporate by reference Local Rule 83-8.1 to 83-8.4 of the Central District. (See RJN A, Current adoption of amended Local Rules of the Eastern District by General Order 533 dated February 15, 2013). The Central District is the only district court in this circuit which proceeds by reference to the California Vexatious Litigant Statute. See Weissman *supra* at 1197. This Circuit in Molski 500 F.3d at 1056 recognized that currently each District Court makes its own vexatious litigation determination in accord with its Local Rules.[19] There is considerable controversy concerning the Local Rules of the Central District. See Molski v. Evergreen Dynasty Corp., 521 F.3d 1215 (9th Cir. 2008) (dissent Kozinski, Chief Judge) discussing the state of the local rules of Central District regarding vexatious litigant determinations).[20]

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[19] "Two district courts in our circuit disagree about whether Molski's frequent litigation is vexatious. In this case, the Central District of California deemed Molski a vexatious litigant. See *Mandarin Touch I*, 347 F.Supp.2d at 868. However, the Northern District of California has denied a motion to declare Molski a vexatious litigant in that district. See *Molski v. Rapazzini Winery*, 400 F.Supp.2d 1208, 1212 (N.D.Cal.2005)."

[20] "…The lawyers and judges of the Central District don't have to put up with this kind of tyranny by one judge acting entirely on his own. A

IV. ARGUMENT

A. Review Standard

Supervisory mandamus is proper when an adequate alternative means of review is unavailable, there is a showing of substantial harm to the public's interest which is not correctable on appeal, the district court's order is clearly erroneous, or the matters present significant issues of first impression that may repeatedly evade review. See Perry v. Schwarzenegger *supra* at 1159, 28 U.S.C. § 1651 (a). It can be used to correct an established trial court practice that significantly distorts proper procedures. See United States v. Horn, 29 F.3d 754, 769 n. 19 (1st Cir. 1994). This form of mandamus is appropriate when "a question anent to the limits of judicial power, poses some special risk of irreparable harm to the appellant, and is palpably erroneous." Id. at 769; In re Cargill, Inc. 66 F.3d 1256, 1260 (1st Cir. 1995) (i.e. where petitioners can "show both that there is a clear entitlement to the relief requested and that irreparable harm will likely occur if the writ is withheld.")

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member of a multi-judge court should not be able to single-handedly cut off one party or law firm's access to all the other judges of the court. The Central District judges can and should adopt a local rule or general order that any judge wishing to bar a litigant or a law firm from accessing the court must obtain the concurrence of a committee of his colleagues. Enforcement of the order, too, should not be entrusted to the judge who entered it, as he may take an unduly broad view as to its scope. Far wiser, and fairer, to have other judges, drawn at random, enforce the order in future cases." (Compare petitioners' request at App. 11.202 ¶4, 11.218:13-28).

Advisory mandamus is not directed at established practices but rather at issues that may be novel, of public importance, or likely to recur. As to advisory mandamus petitioners do not need to demonstrate irreparable harm or clear entitlement to relief. See In re Sony BMG Music Entertainment, 564 F.3d 1, 4 (1st Cir. 2009)("When advisory mandamus is in play, a demonstration of irreparable harm is unnecessary."); In re Atlantic Pipe Corp., 304 F.3d 135, 140 (1st Cir. 2002)(a systemically important issue which the court has not yet addressed.) .

Even in the absence of a showing of clear error this court may act pursuant to its mandamus jurisdiction to clarify the law or when the issues involve matters of first impression. In re Cement Antitrust Litig *supra* at 1307, San Jose Mercury News, Inc. v. United States Dist. Ct.-Northern Dist. (San Jose), 187 F.3d 1096, 1099-1100 (9th Cir. 1999)(mandamus appropriate even when a direct appeal was available). The general standard for issuing a writ of mandamus pursuant to 28 U.S.C. § 1651 were established in the five factors addressed in Bauman v. United States District Court, 557 F.2d 650 (9th Cir. 1977). Satisfaction of all five factors is not required to obtain relief by mandamus. See In re Cement Antitrust Litigation (MDL No. 296), 688 F.2d 1297, 1301 (9th Cir. 1982) (five factors are part of an analytical framework), San Jose Mercury News, Inc. v. United States Dist. Cr.-Northern Dist. (San Jose), 187 F.3d 1096 (9th Cir. 1999) (mandamus appropriate even when a direct appeal was available), .

B. Supervisory Mandamus Jurisdiction Is Warranted Because The Legal Grounds For Barring Adjudication Of The Motion For Preliminary Injunction Raise Questions Anent To The Limits Of Judicial Power And Cause Irreparable Harm To Petitioners And The Public Interest

Supervisory mandamus is appropriate because petitioners do not have an adequate means to obtain a determination on the motion for preliminary injunction and the district court's order is clearly erroneous because it did not lack subject matter jurisdiction. The January 23, 2013 order and judgment penalize petitioners for seeking to raise issue of fundamental importance in this Circuit. Therefore this writ petition is necessary to obtain the remedy properly within the jurisdiction of the federal court. Review by appeal cannot be achieved because the subject orders are either nonappealable or the remedy sought to be achieved will be lost and will evade review by most low and modest means families particularly harmed by the challenged practices. Even if review by appeal was conceivable this writ petition is necessary to protect this court's appellate jurisdiction, to confine an inferior court to a lawful exercise of its prescribed jurisdiction, or to compel it to exercise its authority when it is its duty to do so. See 28 U.S.C § 1651 (a), Roche v. Evaporated Milk Assn., 319 U.S. 21, 26 (1943).

The irreparable harm to petitioners and the public interest is clearly apparent because section 5 of SBX2 11 forces an involuntary waiver of rights under the United States Constitution and federal law, provides retroactive immunity, and real parties are claiming Eleventh Amendment immunity. See California Pharmacists *supra*. Petitioners' motion for preliminary

injunction addresses the issue of irreparable harm and of the public interest. There is not a true substantive response by real parties as to the public interest. (App. 40.1997-2002, 2005-2007, 34.1543, 29.802:14, 18.514:1-4, 19.419-543).

The prior appeal from the July 25, 2012 order denying petitioners' motion for temporary restraining order was dismissed for lack of jurisdiction. This court cited to Religious Tech. Cir. v. Scott, 869 F.2d 1306 (9th Cir. 1989) for the proposition that denial of a temporary restraining order is appealable only if the denial is tantamount to a denial of a preliminary injunction. (See Dkt 12 Appeal No. 12-16828). Upon issuing its mandate the district court then erroneously determined that it lacked subject matter jurisdiction and in contradiction to the notion of subject matter jurisdiction (and without a finding of any inadequacy of a cause of action) it granted leave to file an amended complaint as to a segment of clients of the Law Office and ordered sanctions. The judgment erroneously states that there had been a trial or hearing and that the *entire action* had been dismissed for lack of subject matter jurisdiction and the judgment was entered while the petitions for writ of certiorari were pending in the United States Supreme Court. Functionally there exists a de facto non-appealable partial judgment.

The claim of real parties that all clients of the Law Office are attempting to circumvent the December 6, 2011 certainly is a disputed fact which could not be resolved on a Rule 12 (b)(1) or Rule 12 (b)(6) motion where the allegations of the complaint are to be taken as true. Real parties did not raise the baseless "window dressing" theory as an issue of federal

subject matter jurisdiction in their motion. The December 6, 2011 order formed under the local rules of the Central District do not apply to an attorney representing clients or to persons represented by an attorney. See Weissman at 1176 (the vexatious litigant doctrine was never intended to control attorney conduct), CCP § 391. (statute applicable only to persons in propria persona). Therefore, there was no legal basis to bar any client from the proper and timely adjudication on the motion for preliminary injunction.[21] The inference that the Law Office clients are "window dressings" is reckless as shown by (1) the prior specific knowledge of the claims of clients ASAP Copy and Print and Ali Tazhibi[22]; (2) the fact that the December 6, 2011 order applies to the Central district and does not bar this action or an action by all clients of the Law Office; (3) the fact that Brown and Harris refused to appear in the lower court proceedings conducted by Judge Real or to defend Judge Real's December 6, 2011 order in the pending appeal; (4) the fact that Brown and Harris conceded by formal pleading that a trustee must appear in a legal proceeding by counsel and in their motions omitted the final order on trusteeship; and (5) the fact that real parties relied solely upon a hearsay reference in an unpublished decision rather than the trust instrument and order confirming trusteeship to argue that Ringgold was not a trustee for an improper purpose to cause

[21] See Federal Rule of Civil Procedure, Rule 1 (Rules are to be construed and administered to secure the just, speedy, and inexpensive determination).

[22] (See Affidavit filed herewith, App. 11.200:17-201:8, 14.401-403 Decl. of Ali Tazhibi in instant case and Case CV11-01725 *Lockhart et al v. County of Los Angeles et al*).

delay and prejudice to all clients of the Law Office. These factors also support the petitioners' claim that there is a need for the appointment of special counsel due to unwaiveable conflicts of interest. (App.40.2005-2007). The net result is that a penalty was imposed against clients of the Law Office who need urgent relief by preliminary injunction based on the association with the Law Office, Ringgold, or Lockhart.

C. The December 6, 2011 Order Of A Single Judge Of The Central District Does Not Define The Subject Matter Jurisdiction Of The United States District Courts

Only Congress can confer or divest the district courts of subject-matter jurisdiction. Subject matter jurisdiction is defined by Article III § 2 or the Congressional enabling statutes of 28 U.S.C. § 1330-1369 and 28 U.S.C. § 1441-1452. The administrative procedures and local rules of a district court do not define subject matter jurisdiction. Rules prescribed by a particular district under the Rules Enabling Act, 28 U.S.C. §§ 2071-2077 cannot abridge, enlarge, or modify any substantive right or expand or diminish the jurisdiction conferred by Congress. See Venner v. Great N. Ry. Co., 209 U.S. 24, 35 (1908) ("The jurisdiction of the circuit court is prescribed by laws engaged by Congress in pursuance of the Constitution [,] and this court by its rules has no power to increase or diminish the jurisdiction thus created."); Standish v. Gold Creek Mining Co., 92 F.2d 662, 663 (9th Cir. 1937)("It is fundamental that a rule of court cannot enlarge or restrict jurisdiction given by statute"). Judge Mendez failed to distinguish between the court's jurisdiction (authority to adjudicate a case) as compared to an entirely different district court's rules and procedures it may adopt to conduct the business in *that* particular district. As to the later, the rules of

the Central District do not apply in the Eastern District, the December 6, 2011 order was not applicable to the clients of the Law Office or this case, and the December 6, 2011 order did not require permission from any specific judge in the Central District to pursue valid legal claims filed in the proper venue or to file valid legal claims in all other district courts in the United States.

Once Judge Mendez determined there was a lack of subject matter jurisdiction he was powerless to reach the merits based on Article III of the Constitution and would have had to dismiss *without prejudice*. See Adarand Constructors, Inc. v. Mineta, 534 U.S. 103, 110 (2001), Fleck and Associates, Inc. v. Phoenix, City of, an Arizona Municipal Corporation, 471 F.3d 1100 (9th Cir. 2006), Brereton v. Bountiful City Corp., 434 F.3d 1213, 1216-20 (10th Cir. 2006). However, subject matter jurisdiction was never lacking and therefore leave to amend was granted to file the Second Amended Complaint. Therefore procedurally all clients of the Law Office remain in the same position of continuing irreparable harm without disposition of their properly filed and fully briefed motion for preliminary injunction.

D. Exceptional Circumstance Exist Which Warrant The Exercise Of Supervisory Mandamus Because Of Issues Of First Impression And Impacting Matters Concerning Rights Protected By The First Amendment

Under the procedural circumstances it is impossible to effectually present valid legal claims that are of substantial interest to the public and involve issues of first impression. The first through fourth causes of action of the complaint filed by petitioners are grounded in the Voting Rights Act of 1965. Section 5 of the Voting Rights Act of 1965 remains vital to protecting the right of racial and language minorities to participate on "an

equal basis in government under which they live." South Carolina v. Katzenbach, 383 U.S. 301, 337 (1966). Section 5 of SBX2 11 is a discriminatory lockbox that conceals judicial vacancies of office and the right to disclosure and consent in pending cases mandated by the California Constitution. It is the electorate at the ballot box that has key to open the door to diversity in the judiciary and the necessary reform needed to address systemic discrimination in programs and departments receiving federal financial assistance. The vexatious litigant statute has been applied as a form a viewpoint discrimination to prevent petitioners' efforts.

The January 23, 2013 order refers to the cause of action under the Voting Rights act, 28 U.S.C. 2201-2202, the Fourteenth and Fifteenth Amendment seeking a declaration of constitutional vacancy of office and special judicial election in the local districts as an "existential challenge". However, the action to enforce the Voting Rights Act is not "existential" and is a concrete right of the electorate and racial and language minorities who have been deprived of the opportunity to elect a judiciary that reflects the diversity of the state and to participate equally in the government.

1. Nature Of The Immunity Provision Of Section 5 Of SBX2 11 And Why There Exists A Constitutional Vacancy Of Judicial Office.

The legal foundation of petitioners' claims is based on the position that the Supremacy Clause bars a state from attempting to effectuate "special immunities" hidden from the public that effectuates a waiver of rights guaranteed under the United States Constitution and federal law. The complaint contains causes of action in which Congress expressly authorized injunctive relief. See Mitchum v. Foster, 407 U.S. 225, 237

(1972)[42 U.S.C. § 1983], Tennessee v. Lane, 541 U.S. 509 (2004) (Title II of ADA), Gonzalez v. Arizona, 677 F.3d 383 (9th Cir. 2012) [42 U.S.C. § 1973]. Also this court has jurisdiction to order an injunction because all cases of petitioners have been removed to the federal court under 28 U.S.C. § 1443 (civil rights removal statute) and are pending in either this court or the district court. Additionally, the injunctive relief sought is consistent with existing federal consent orders and/or judgment (applicable to some clients of the Law Office). (App. 40.2035-2036). Petitioners' satisfy the requirements for injunctive relief. ((1) a strong likelihood of success on the merits, (2) the possibility of irreparable injury, (3) a balance of hardships tips in their favor, and (4) the advancement of the public interest. See Johnson v. Cal. State Bd. Of Accountancy, 72 F.3d 1427, 1430 (9th Cir. 1995). (App. 40.1971-42.2247); Caribbean Marine Services Company, Inc. v. Baldrige, 844 F.2d 668 (9th Cir. 1988)(reversible error by failure to consider the public's interest and identify harm to the government). The district court's functional denial of injunctive relief is based on the clearly erroneous premise of lack of subject matter jurisdiction.

There is no dispute that section 5 of SBX2 11 creates a waiver of rights under the United States Constitution and federal law, that the challenged uncodified provision is generally inaccessible to the public, and that the Commission rendered a decision that the challenged immunity provision is unconstitutional. There is also no dispute that Sturgeon held that the judges of the courts of records were county employees and that California Constitution Art VI § 17 bars public employment. It is not a difficult task to provide litigants of the required constitutional disclosure and the

opportunity to consent to the proceedings. Petitioners object and the state court proceedings where their cause, claim, or defense is pending is impaired by retaliation (and claims of immunity prevent recovery). This condition will persist without the requested relief.

In Noel Canning, relying on Marbury v. Madison, 1 Cranch 137 (1803), the court found that when two laws conflict with each other that the court must decide the operation of each and strike down the unconstitutional act. Id. at 29-30. It further held: "[¶]…[I]f some administrative inefficiency results from our construction of the original meaning of the Constitution, that does not empower us to change what the Constitution commands. … The power of a written constitution lies in its words. It is those words that were adopted by the people. When those words speak clearly, it is not up to us to depart from their meaning in favor of our own concept of efficiency, convenience, or facilitation of the functions of government." Id. at 39. Litigants and voters in the State of California must be reassured that the United States Constitution and California Constitution can be given effect and that state governments cannot use more sophisticated methods of voting discrimination to undermine the voting strength of racial and language minorities and eliminate the mandatory right of disclosure and consent in proceedings before pro tempore judges.

Noel Canning determined that there were not valid appointments causing a vacancy of office and the order rendered by the NLRB was void. Here, Article VI § 17 mandates that acceptance of public employment and office by a judge of a court of record causes constitutional judicial

resignation –a constitutional vacancy of judicial office. Because of the constitutional vacancy without disclosure and consent, the resulting orders are void. As in Noel Canning when two laws conflict with each other the court must decide the operation of each and strike down the unconstitutional act. Petitioners seek preliminary injunctive relief pending further review as to their pending cases because they do not consent.

While consideration of immunity in the context of evaluating the need for injunctive relief is not an issue of first impression, it is unquestionable that the retroactive immunity provision of section 5 of SBX2 11 is extraordinary. It was drafted when there was knowledge that there would be eventual discovery the constitutional vacancy of judicial office which is a mandatory consequence of the Sturgeon decision, state constitution, and applicable law. See Alex v. County of Los Angeles, 35 Cal.App.3d 994 (Cal. 1973), Abbott v. McNutt, 218 Cal. 225 (Cal. 1933), Cal. Attorney General Opn 83-607, 66 Cal.Attorney General 440 (App.40.2188-2194), Candace Cooper v. Controller of the State of California and Secretary of State Los Angeles Superior Court Case No. BC425491 (December 10, 2010) (App. 6.1154-1184). Section 5 of SBX2 11 is a recognition that at the point of the constitutional vacancy of judicial office that the person is not acting in a judicial capacity. Compare Forrester v. White, 484 U.S. 219 (1988). Otherwise there would not be a need for the hidden immunity provision as to civil liability, criminal prosecution, disciplinary action notwithstanding of the nature of the claim, federal law, and the United States Constitution.

2. Application Of The California Vexatious Litigant Statute As A Method Of Viewpoint Discrimination And Retaliation To Impair The Freedom Of Expression And Association In Violation Of The First Amendment

The treatment of the clients of the Law Office as de facto vexatious litigants based on their association is directly related to when the Law Office unknowingly filed the 2007 constitutional rights violation petition raising federal constitution claims that conflicted with recommendations of the Probate Force of the California Judicial Council. The petitioners' grievances and effort to seek a special judicial election is a form of political speech which they are advocating as a group. "The freedom to associate with others for the common advancement of political beliefs and ideas lies at the heart of the First Amendment." Perry at 1151. "Effective advocacy of both public and private points of view, particularly controversial ones, is undeniably enhanced by group association. NAACP v. Alabama, 357 U.S. 449, 460 (1958). The limitation of access to the court combined with application of CCP § 391.7 to counsel of record functions as improper indirect disqualification order imposed without a noticed motion. See Cole v. United States Dist Ct., 366 F.3d 813-820 (9th Cir. 2004)(discussing mandamus relief following disqualification of counsel). The government cannot favor some viewpoints or ideas at the expense of others. Moss at 1223. Because petitioners must seek relief in a judicial forum and the claims involve judicial conduct and judicial election, this all the more reason that there should be close scrutiny of the conduct which impairs the First Amendment in court proceedings.

3. The Need For The Appointment Of Special Counsel To Act As Public Trustee

Supervisory and/or advisory mandamus is proper because the conflict of interest in the proceedings is unwaivable and this is a threshold issue. There are substantial issues at stake and a need for confidence in the decisions ultimately rendered.

The state Attorney General cannot simultaneously represent persons who are county employees and officials and subject to the claim of constitutional vacancy of judicial office and also represent the people of the State of California who overwhelmingly voted to adopt California Constitution Art. VI § 17. The positions are diametrically in opposite. Brown was the state Attorney General when section 5 of SBX2 11 was enacted. Neither Brown nor Harris (the current Attorney General) has responded to the request of the Commission for a formal legal opinion on section 5 of SBX2 11. In different litigation when the Central District ordered that the acts of the judges could have only have been authorized by the State of California, neither Brown nor Harris opposed this position. The Office of the Attorney General is engaged in conflicting representation of the related persons and entities benefiting from the hidden immunity provision.

The issue of whether the California Attorney General can simultaneously represent the public's interest and the interest of those who benefit from the immunity provision of section 5 of SBX2 11 should be resolved prior to further proceedings in this case. See City of and County of San Francisco v. Cobra Solutions, Inc., 38 Cal.4th 839 (Cal. 2006) (entire city

attorney's office disqualified), Flatt v. Superior Court, 9 Cal.4th 275, 282 (Cal. 1994) (breach of duty of loyalty). The office has undivided duty to the public served and a duty not place itself in the position of conflicting duties or causes. See United States v. Carter, 217 U.S. 286, 306-309 (1910), Plaquemines Par. Com'n Council v. Delta Dev. Co., 502 So.2d 1034 (LA 1987).

E. Advisory and Supervisory Mandamus Jurisdiction Is Warranted To Address Systemically Important Issues Impacting Fair Access To The Court Because Of Conflicting Local Rules And Procedures In The Lower Courts Concerning Vexatious Litigant Orders

It is unsettled whether administrative orders made under local rules of a particular district labeling a person or entity as a vexatious litigant apply only to that district as referenced in Molski 500 F.3d 1047, 1056[23] or whether such orders apply in every district in the United States.[24] There

[23] (See fn 19herein).

[24] In the lower court real parties cited to the case of Seventh Circuit's case of Sassower v. American Bar Association, 33 F.3d 733 (7th Cir. 1994). Petitioners contend this case is not applicable. The plaintiff was *already* subjected to a specific order which enjoined him from filing a new case connected with a specific issue *anywhere in the United States*; he had filed extraordinary litigation throughout the United States in *propria persona*; and cases he filed were not addressing a challenge to state statute governing vexatious litigation (and used to bar clients of a law office from properly proceeding with their cases). The instant case involves an administrative order in which one person filed two cases in the district (one dismissed for lack of subject matter jurisdiction) and another person has never filed any case in propria persona in their lifetime. (App. 6.1313-1318, 7.1462, 7.1466-1469). The order is on review in this Circuit and it does not enjoin the attorney from filing a case in other districts of the United States or require

does not exist a consistent standard in this Circuit, the matter is a systemically important issue which this court has not addressed that is likely to reoccur; and the issue is fundamental to obtaining fair and reasonable access to the federal court. See In re Atlantic Pipe Corp. at 140. Deferral of review on this issue impairs the petitioners' opportunity for effective review or relief. See United States v. Pleau, 680 F.3d 1,4 (1st Cir. 2012). As to advisory mandamus there is no requirement for petitioners to show irreparable harm although it is present in this case. See In re Sony BMG Music Entm't, 564 F.3d 1, 4 (1st Cir. 2009).

Local Rules of a particular district court must be made after public notice and comment and by majority vote of the judges of that court. 28 U.S.C. § 2071, Fed. Rule of Civ. Proc, Rule 83. The Eastern District has not deemed any petitioner to be a vexatious litigant and its rules do not adopt by reference the local rules of the Central District. (See Request for Judicial Notice "RJN" A). Any local rule must be consistent with Acts of Congress and the rules of practice and procedure prescribed by the Supreme Court under 28 U.S.C. § 2072. See 28 U.S.C. § 2071 (a), Fed. Rule of Civ. Proc, Rule 83.

The rule and procedure devised by Judge Mendez and couched as required for subject matter jurisdiction conflicts with Rule 1, 17, 54, and 83 of the Federal Rules of Civil Procedure. At its core the procedure adopted is a prior restraint applied in a vastly overbroad manner as to petitioners' protected activities under the First Amendment. The procedure violates 28

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the attorney to obtain the permission of a judge in a different district to file a case on behalf of clients of the Law Office.

U.S.C. 2071 (a) and 28 U.S.C. § 2072 (b) by abridging substantive rights and diminishing the jurisdiction conferred by Congress. See United States v. Jacobo Castillo, 496 F.3d 947, 954 (9th Cir. 2007).

Petitioners sought both a temporary restraining order and preliminary injunction and the rule and procedure devised is not consistent with Rule 1 that requires that the Federal Rules are to be construed and administered to secure a just, speedy, and inexpensive determination of the action. Petitioners requested that the complaint be referred to the Chief Judge to immediately determine if a pre-filing requirement had been satisfied or if one was needed in the Eastern District.[25] Rule 17 (a)(1)(e) specifies that an action must be prosecuted in the name of the real party in interest and that a trustee may sue in their own name without joining the person for whose benefit the action is brought. The capacity to sue is determined by the law of the forum state and in this circumstance Ringgold as one of the named trustee and executor petitioners properly participates in the action and was represented by counsel in accord with Ziegler *supra*. The Eastern District entered a final judgment without a Rule 54 (b) certification and then imposed sanctions for seeking certification. It denied the motion to vacate the judgment when the judgment entered adversely impacted all petitioners' right to obtain adjudication of the motion for preliminary injunction and improperly states that a trial or hearing was conducted. (App. 1.5, 2.8. 11.220:1-8, 225:24-226:5, 227:6-21). Finally, the rule and procedure adopted is inconsistent with Rule 83 which prohibits the adoption of a local rule or practice that is inconsistent with the Federal

[25] See App. 11.202¶4, 11.218-219.

Rules or that enforce the requirement in a way that causes a loss of any right because of a nonwillful failure to comply.[26]

As this court noted in Weissman, the Central District is the only district which allows the court at its discretion to proceed by reference to the California Vexatious Litigant statute and it is segments of this state statute that petitioners are challenging.[27] The Chief Justice of this court questioned the application of the Central District's local rule to cut off access to other judges in the Central District. Molski at 521 F.3d 1215, 1221-1222. Here, this same concern is amplified because there is no legal authority which justifies expansion of the Central District's rule to other district courts in the United States either directly or indirectly when the judges of the those district courts (1) did not review and approve the rule and practice, and (2) public notice and comment has not taken place. The prejudice to petitioners is evident because in part they contend that the state statute referenced in the local rule of the Central District is being applied in the state court without the mandatorily statutory due process motion in the trial court, in a manner which violates the state constitution, in a manner which denies appellate review of the determination of vexatious litigant status, and in a manner which targets persons attempting to raise federal

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[26] The December 6, 2011 order should not be construed to require a Law Office to associate additional counsel merely to represent its *own* clients who are bringing an action together or to include all clients with common claims and interests.

[27] App. 9.95-100, 9.116 ¶115-116, 9.121 ¶143, 9.123 ¶145e & ¶ 146, 9.145 ¶3.

claims in the state court. (App. 9.98 ¶48-49). This necessarily impairs effective direct review in the United States Supreme Court.

G. Mandamus Jurisdiction Is Proper Under The Factors of *Bauman v. United States District Court* Including As to the Sanction Orders.[28]

1. Petitioners Do Not Have An Adequate Means By Direct Appeal To Attain The Relief Urgently Needed and Petitioners Will Be Damaged and Prejudiced In A Way Not Correctable On Appeal

The procedural circumstance leaves petitioners without effective access to injunctive relief. The affidavit filed herein and the affidavit on the motion for preliminary injunction outlines the facts of severe irreparable harm which is not speculative. (e.g. imminent risk of loss of home, liquidation of property without bond, dismissal of discrimination claims, denial of access to court by de facto vexatious litigant status or denial of accommodation for disability). Those petitioner clients who are out of state elders and have been seeking injunctive relief not only lack an effective remedy by appeal, they are prejudice by delay due to their age. (App. 11.227, App. 40.2012-2041). There is substantial prejudice because the appeal concerning the December 6, 2011 order has been fully briefed since August 22, 2013. The sanction orders are not immediately appealable and the court denied certification. Cunningham v. Hamilton County, Ohio, 527 U.S. 198, 203-204 (1999), See Riverhead Sav. Bank v. National Mortg. Equity Corp., 893 F.2d 1109, 113 (9th Cir. 1990). The sanction orders do not consider the financial ability to pay. See Haynes v. City and County of San Francisco,

[28] Petitioners have addressed in part the various Bauman factors in the sections above and they are hereby incorporated by reference in this section. This sections raises other arguments not addressed above.

688 F.3d 984 (9th Cir. 2012)(abuse of discretion to decline consideration of inability to pay). The court did not exercise discretion because it made no ruling on the issue. (App. 5.52—8.72). The January 23, 2013 order granting the motions to dismiss as to certain parties is not a final order or judgment and is not appealable. Perington Wholesale, Inc. v. Burger King Corp., 631 F.2d 1369, 1370-1371 fn 2 (10th Cir. 1979).

2. The District Court's Orders Are Clearly Erroneous As A Matter Of Law

Above petitioners addressed various matters which demonstrate that the January 23, 2013 order and judgment are clearly erroneous. Here, they address the district court's ruling on the request for judicial notice and sanction orders.

a. Request for Judicial Notice

There is clear legal error with respect to the court's ruling on the requests for judicial notice. Fundamentally, other than the hearsay reference in the unpublished decision that Ringgold is not a trustee, the court does not identify what document for which judicial notice was granted. (App. 3.13-14, 11.222-224, 30.807-853). As to this single disputed hearsay reference real parties intentionally omitted the order and trust instrument that firmly contradicted their contention. (App. 14.452-463, 30.824:19-827:24, 30.839-840, 31.1120, 31.1135-1140). Real parties never set forth by declaration the relevant adjudicative facts or authenticated the documents for which judicial notice was sought. Unless the court holds an evidentiary hearing it was required to accept as true the factual allegations of the complaint. McLachlan v. Bell, 261 F.3d 908 (9th Cir. 2001), Augustine *supra* at 1077. Real parties did not meet the threshold issue of relevance because the

December 6, 2011 order had nothing to do with the Rule 12 (b)(1) or Rule 12 (b)(6) motion and they did not file a motion to strike the pleadings as to Ringgold and Lockhart as a sanction.

b. Sanction Orders And Counter Request for Sanctions

(i) Rule 11 Sanctions ($9,520) -January 23, 2013 Order

The January 23, 2013 order specifies that the primary focus of the Rule 11 sanction was based on the complaint and it did not reach the merits. (App. 3.19).[29] When the focus in the complaint there is a two-prong inquiry to determine (1) whether the complaint is legally or factually baseless from an objective perspective, and (2) if the attorney has conducted a reasonable and competent inquiry before signing and filing it. Christain v. Mattel, Inc. 286 F.3d 1118, 1127 (9th Cir. 2002). Rule 11 sanctions do not involve conduct that occurs outside the pleadings. Id. at 1121. The word frivolous is taken to mean *a filing* that is *both* baseless and made without a reasonable and competent inquiry. Townsend v. Holman Consulting Corp., 929 F.2d 1358, 1362 (9th Cir. 1990). Complaints are not filed for an improper purpose if they are non-frivolous. Zaldivar v. City of Los Angeles, 780 F.2d 823, 832 (9th Cir. 1986). An attorney cannot be sanctioned for a complaint that is in fact well-founded solely because the attorney's prefiling inquiry is viewed as inadequate. See In re Keegan Management Co., Secur. Litig, 78 F.3d 431, 435 (9th Cir. 1996).

[29] The January 23, 2013 order states: "…[t]he Court has not reached the underlying merits of this litigation." (App. 3.21).

The court was of the belief that although it had found that it lacked subject matter jurisdiction over the entire case that it could still impose sanctions under the authority of Willy v. Coastal Corp., 503 U.S. 131, 137-38 (1992). The court's interpretation of Willy is in error. The case does not hold that a district court can simultaneously order sanctions and disregard its own finding that it lacks Article III authority. (App. 11.228-229). Willy involved a circumstance where it was *later determined* that there was a lack of subject matter jurisdiction. Here, the current order on review imposes sanctions and simultaneously holds there is a lack of Article III authority. Id. at 138-139. The determination of lack of subject matter jurisdiction was the anchor by which the court determined it could not consider the merits of the complaint signed and filed. Therefore, the Rule 11 sanction is premised on matters extrinsic to the pleadings and this is an erroneous legal standard.

Rule 11 sanctions are solely based on the assertions in papers filed with or submitted to the court. (Compare App. 3.20, "Because the filing of the FAC was barred by the December 6, 2011 Order, it had no chance of success and choosing to file it was plainly frivolous."). The indication of no chance of success is not based on reference to the pleading filed but rather by reference to matters in a different case and district – the December 6, 2011 order which petitioners Ringgold and Lockhart did not sign and file. Counsel could only attempt to interpret it. The complaint signed and filed could not be considered objectively baseless if the court had applied a proper standard. (See App. 24.594-614, 28.750-799).

As to the question of whether a reasonable and competent inquiry was made before signing and filing the complaint, again, the point of

reference should have been the signed and filed complaint and not matters extrinsic to the complaint. In Keegan this court question whether an attorney could be sanctioned for "a complaint which *is* well-founded, solely because [the attorney] failed to conduct a reasonable inquiry?" And it concluded "that the answer is no." Keegan at 434. The district court disregarded the complaint and required a subjective inquiry into the meaning of another judge's order. Even if the inquiry standard under Rule 11 is beyond the document signed and filed by counsel or the party, under an objective standard, the published authority of this court and review of the local rules of court of the Central District and Eastern District, an attorney would reasonably believe there was no pre-filing requirement in the Eastern District. If such requirement was needed the ex parte application made a proper and reasonable request that the Chief judge of the Eastern District where the complaint was filed to provide notice of the applicable rule or make the required assessment. (RJN B, Molski 500 F.3d at 1056). Because the complaint cannot be viewed as baseless and a reasonable and competent inquiry was made as to the complaint signed and filed and as to matters extrinsic thereto, the complaint could not be considered frivolous. Townsend at 1362, Keegan at 435. The January 23, 2013 order indicates that an improper purpose could be inferred. (App. 3.20 "[f]iling a pleading in violation of a direct order not to do so allows this Court to infer that the filing was made for an improper purpose, i.e. to circumvent the vexatious litigant order issued in the Central District of California."). First, there is no order directing that a complaint not be filed or an effort to circumvent any order. Second, an improper purpose cannot be inferred if

the complaint filed is not frivolous. Townsend. 1362-1365. It is only when there is solid evidence that the pleading signed and filed is frivolous can any inference arise with respect to an alleged improper purpose. Id. at 1365. The court erred in imposing sanctions against Lockhart as to the initiation of the complaint because these decisions were solely based on counsel's assessment, not the client. (App. 11.246 ¶13).

Ringgold as counsel also made a reasonable assessment that she did not need to seek leave from a judge in a different district in order to file a complaint on behalf of all Law Office clients in the proper venue and she did not violate the December 6, 2011 order. (App.51.2376:9-21). The order only applies to Ringgold if she is appearing in propria persona and not in her capacity as an attorney or as a fiduciary. The district court completely omits any mention that Ringgold is also named as an executor in a will. The January 23, 2013 order also erroneously indicates that the complaint was seeking personal relief. The relief sought by Ringgold as trustee was on behalf of the trust and governed by the terms of the trust. (App. 3.16 fn 2 compared to 11.234:3-237:5).

Ringgold as counsel also made a reasonable assessment that leave was not required from a judge in a different district as to Lockhart. The December 6, 2011 order is made through the Local Rule of the Central District that is based on reference to the California Vexatious Litigant Statute. The statute does not apply to persons represented by counsel or to persons deemed vexatious litigants who are represented by counsel. See Shalant v. Girardi, 51 Cal.4th 1164, 1171, 1175-1176 (Cal. 2011). Ringgold could not represent Lockhart in propria persona or as a trustee in propria

persona. As to the whether the action involves administration of the state courts or administration of the probate courts, counsel reasonably construed the order in a manner that is not constitutionally overbroad and would not impair substantial legal rights and enable a complaint to be timely filed within the shortened statute of limitations after rejection of a government claim. The fundamental focus of the complaint is the Voting Rights Act of 1965 and implementation of a monitored special judicial election and this does not involve administration of a court. (App. 11.237).

(ii) Counter claim for Rule 11 Sanctions ($35,770) –February 8, 2013

The court's ruling on the petitioners' motion for sanctions is clearly erroneous and an abuse of discretion. It incorrectly specified that petitioners were required to file a separate motion and provide safe-harbor notice. See Patelco Credit Union v. Sahni, 262 F.3d 897, 913 (9th Cir. 2001), Rule 11 Adv. Comm. Note to 1993 Amendment. Petitioners' counter request for sanctions was under Rule 11 (b)1, (b)(2), and (b)(3) and court abused its discretion in failing to exercise discretion to evaluate real parties' motion. Petitioners' claims include but are not limited to omission of authorities which would render their argument frivolous, failing to provide complete copies of items in the request for judicial notice including the final order governing trusteeship governed by res judicata, referring to matters dismissed for lack of subject matter jurisdiction as having res judicata effect, falsely claiming that Brown and Harris had been sued by petitioners in the state court, falsely claiming that an action had been dismissed against Brown and Harris with prejudice, claiming (when there was evidence to the

contrary) that clients of the Law Office were not involved in the action. (App. 11.227:22-228:22, 11.246¶14, 24.594:25-595:608, 4.614:19616, 26.666-712).

(iii) Reasonableness of Sanction and Inability To Pay

The sanction amount is not reasonable because the court awarded 56 hours for work which was unrelated to the sanctions motion and for motions which the court never ruled on. Real parties' motion was merely a cut and paste of earlier filings. (App. 24.595:9-14). Also, as discussed above the court erred in not considering the inability to pay (or non-monetary alternatives) and it did not consider petitioners' request for sanctions (that could be used as an offset).

(iv) Inherent Power Sanctions ($1,000) – February 8, 2013

The power to impose sanctions against an attorney under the court's inherent power is limited to bad faith conduct in litigation or for willful disobedience of a court order. Chambers v. NASCO, Inc. , 501 U.S. 32, 43 (1991), Roadway Express, Inc. v. Piper, 447 U.S. 72, 764-766 (1980). Negligent conduct is not sufficient and neither is recklessness without more. See Zambrano v. City of Tustin, 885 F.2d 1473 (9th Cir. 1989), In re Keegan Mgmt Co., 78 F.3d 431 (9th Cir. 1996). The court found that the ex parte application for (1) stay pending disposition of petition for writ of certiorari or other review; (2) for reconsideration and/or to vacate, or for other relief (including leave to amend; alternatively, for (4) stay and certification under Rule 54 (b) and/or 28 U.S.C. § 1292 "recklessly raised frivolous arguments for an improper purpose". (App. 1.6, 11.196-14.475).

This was based on indication (1) that the application was construed solely as a motion for reconsideration, (2) that counsel was warned to carefully consider the propriety of future filings in the January 23, 2013 order, and (3) the application was an attempt to "circumvent the court's prior order". (App. 1.6).

The February 8, 2013 order is clearly erroneous as a matter of law and an abuse of discretion. The January 23, 2013 order was entered approximately ten days after clients ASAP Copy and Print and Ali Tazhibi had filed their petition for writ of certiorari. The January 23, 2013 order stated that "[a]s Defendants meritoriously argue, the inclusion of Plaintiff Ringgold's clients as additional plaintiffs appears to be an attempt to avoid the consequences of the December 6, 2011 order." (App. 3.17:14-17). Inherent power sanctions can be denied where the opposing party is guilty of unclean hands. Compare Fayemi v. Hambrecht & Quist, Inc., 174 F.R.D 319, 326 (S.D.N.Y. 1997). The ex parte application produced the prior declaration Ali Tazhibi the owner of ASAP Copy and Print which had previously been served on the Office of the Attorney General. Therefore the foundational argument of real parties' that the clients of the Law Office were named only to circumvent the December 6, 2011 order was in bad faith, reckless, and for an improper purpose. (See Affidavit herein, App. 13. 290-293, 13.297-301, 14.401-403). Moreover ASAP Copy and Print presented evidence concerning the connection between its claim of viewpoint discrimination and the link to the Aubry Family Trust litigation. (App. 11.245-246). The ex parte application also sought relief because the district court had entered a judgment. It was not a partial certified judgment and it

was not reckless or frivolous to request that it be vacated. (App. 2.7-8). The February 8, 2013 order disregards the actual judgment entered and states "[c]ertification under Rule 54 (b) is unnecessary…and this matter will be subject to appeal upon entry of final judgment….". (App. 1.4).

The ex parte application was improperly construed only as a motion for reconsideration when it sought relief under Rule 60 (b). (See App. 11.216). The additional requests, such as, the request for certification, for sanctions to be imposed solely against counsel rather than the client, the requests for assessment of inability to pay, and for a procedure to obtain adjudication of the fully brief motion for preliminary injunction to avoid prejudice to clients of the Law Office did not recklessly raise frivolous arguments for an improper purpose. Also, although the court indicated that it believed the presentation of the recent and new authority of Noel Canning was misplaced it did not say it was reckless and for an improper purpose. (App. 1.3-4).

As to the alleged warning, the January 23, 2013 order states: "[s]ince the pre-filing requirement does not apply to the Law Office Client Plaintiffs, they may file an amended Complaint within 21 days. Any amended filing must avoid claims related to the Aubry Trust or any other claims that seeks relief on behalf of Plaintiffs Ringgold and Ringgold-Lockhart. Counsel for the Law Office is cautioned to carefully consider whether any such failing comports with Rule 11 prior to filing it and certifying it with her signature." (App. 3.22). There is nothing in this cautionary statement in the January 23, 2013 order which provides fair notice on the new basis of the sanction imposed in the February 8, 2013 order. See Roadway at 767.

Finally, the improper purpose was that the ex parte application sought to "circumvent the court's prior order" and to multiply the proceedings. There is nothing in the application which sought to circumvent a prior order. To file a non-frivolous requests prior to seeking review including a motion under Rule 60 (b) to vacate the non-partial judgment without Rule 54 (b) certification and did not unduly multiple the proceedings.

3. The Orders Manifest An Oft-Repeated Error

There are three repeated errors shown by the petitioners in this action satisfying the fourth Bauman factor.

First, despite federal consent orders and judgment and a comprehensive financial remediation framework established to the Department of the Treasury, petitioner client homeowners who were specifically identified as within the class impacted by unsound and risky banking practices have not been able to reach the remedies and corrective action required because they cannot obtain injunctive relief to reach the intended benefit of federal consent orders and judgment even when they are confronted by eviction by banking institutions that are not owners of record of their property.

Second, client trustees and/or executors with cases arising from the state court probate division show that litigants who seek injunctive relief under federal law that provide for racial equality including under 24 U.S.C. § 1982 (concerning the right to inherit) that there is an oft-repeated error to decline injunctive relief even when warranted and there is a repeated error to treat proceedings concerning private trusts as the same as a proceeding to

administer a decedent estate. If the Act of Congress is not to be treated as a nullity it is imperative that families be able to obtain injunctive relief before all resources are depleted by state court adjuncts appointed without the mandatorily required bond. Due to the lack of effective access to the federal statutory remedy of injunctive relief the state courts have disregarded mandatory bonding requirements leaving families without any effective remedy or access to the court (because they cannot afford an attorney because the families' resources are depleted).

Finally, petitioners show an oft-repeated error and confusion in the district courts as to whether administrative orders regarding alleged vexatious litigation to a specific district or to all district courts in the United States.

3. The Matters Raised Involve Issues of First impression.

The issues of first impression are addressed above and this Bauman factor provides a basis for mandamus jurisdiction.

V. CONCLUSION

For the forgoing reasons and in conjunction with the affidavit, appendix, and request for judicial notice filed herewith, petitioners request that this court grant their petition for supervisory and/or advisory mandamus pursuant to 28 U.S.C. § 1651 and their petition for mandamus and/or prohibition or other appropriate relief. They request that this court grant the motion for immediate stay and injunction during pendency of review. To the extent the court is inclined to deny review by this writ petition, petitioners request that this court grant the motion immediate stay and injunction and decide the writ petition and appeal at the same time.

Dated: April 25, 2013

LAW OFFICE OF NINA R. RINGGOLD

By: s/ Nina R. Ringgold_____
Nina R. Ringgold, Esq.
Attorney for the Petitioners

CERTIFICATE OF SERVICE

I hereby certify that on April 26, 2013 I electronically filed the following documents with the Clerk of Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system:

PETITION FOR SUPERVISORY AND/OR ADVISORY MANDAMUS PURSUANT TO 28 U.S.C. § 1651, PETITION FOR MANDAMUS AND/OR PROHIBITION OR OTHER APPROPRIATE RELIEF

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

The following person is not a registered CM/ECF user and was served by hand delivery:

For the Respondent Court
Judge John A. Mendez
United States District Court for the Eastern District
Courtroom No. 6, 14th Floor
501 "I" Street
Sacramento, CA 95814

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and this declaration was executed on April 26, 2013 at Los Angeles, California.

s/ Matthew Melaragno

Form 8. Certificate of Compliance Pursuant to 9th Circuit Rules 28-4, 29-2(c)(2) and (3), 32-2 or 32-4[1] for Case Number unassigned

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Signature of Attorney or Unrepresented Litigant: s/ Nina R. Ringgold

("s/" plus typed name is acceptable for electronically-filed documents)

Date: 4.26.13

[1] If filing a brief that falls within the length limitations set forth at Fed. R. App. P. 32(a)(7)(B), use Form 6, Federal Rules of Appellate Procedure.

9th Cir. Civ. Case No. _____
USDC Case No. CV12-00717-JAM-JFM

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

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

Petitioners,

v.

UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF CALIFORNIA,

Respondent,

JERRY BROWN in his Individual and Official Capacity as Governor of the State of California and in his Individual and Official Capacity as Former Attorney General of the State of California; KAMALA HARRIS in her Individual and Official Capacity as Current Attorney General of the State of California; COMMISSION ON JUDICIAL PERFORMANCE OF THE STATE OF CALIFORNIA as a state agency and constitutional entity, ELAINE HOWLE in her Individual and Official Capacity as California State Auditor and DOES 1-10.

Real Parties In Interest.

From the United States District Court for the Central District
The Honorable John A. Mendez

EXHIBIT 56 to AFFIDAVIT

NINA RINGGOLD, Esq. (SBN #133735)
Attorney for Petitioners
Law Offices of Nina R. Ringgold
9420 Reseda Blvd. #361, Northridge, CA 91324
Telephone: (818) 773-2409

EXHIBIT 56

January 30, 2013 email 1:39 p.m. from Law Office of Nina Ringgold to Office of Attorney General

Subj: **Ex Parte Notification-2:12-CV-00717-JAM-JFM, Ringgold et al v. Brown et al**
Date: 1/30/2013 1:39:57 P.M. Pacific Daylight Time
From: Nrringgold@aol.com
To: Catherine.Woodbridge@doj.ca.gov, toledo@mgslaw.com

Case No.: 2:12-CV-00717-JAM-JFM, Ringgold et al. v. Brown et al.

Dear Counsel:

My office provided you with notice on January 24, 2013 and January 25, 2013 regarding an ex parte application in the above-referenced matter. As you are aware, following the district court's January 23, 2013 order, the United States Court of Appeals for the District of Columbia Circuit decided the case of *Noel Canning v. NLRB*, No. 12-1115, (January 25, 2013). My office needed some time to review this 47 page decision. Upon review we believe this decision will impact primary issues in the instant case.

There are two petitions for writ of certiorari submitted to the United States Supreme Court that are related to the instant case: *Ringgold et al v. Brown et al* and *ASAP Copy and Print et al v. Canon Business Solutions.* (involving plaintiff client of the Law Office in *Ringgold et al v. Brown et al*)

You are given further notice and an updated notice regarding the ex parte application. Plaintiffs will be filing by no later than January 31, 2013 an ex parte application (1) for stay pending disposition of petition for writ of certiorari; (2) for reconsideration and/or to vacate, or for other relief (including leave to amend); Alternatively for (4) stay and certification under Rule 54 (b) and/or 28 U.S.C. 1292.

Since urgent relief is required and this application is being made in advance of seeking relief in the United States Supreme Court and/or United States Court of Appeals, please let me know in advance or upon receipt whether you believe there can be a stipulation fashioned as to any of the relief requested and whether you will be opposing the application.

Also, please let me know whether you are willing to stipulate to vacate the order and judgment, agree that the December 6, 2011 order does not apply to all plaintiff clients of the law office (which is in fact all of the plaintiffs), and allow an amended complaint to be filed as to all plaintiff clients of the law office. Also, let me know if you will stipulate to a certification order or to stay the sanction order. The ex parte application requests that the sanction solely be imposed against counsel and not the client and that there be a stay of enforcement and an alternative non-monetary order based on the inability to pay. See *Haynes v. City and County of San Francisco*, 688 F.3d 984 (9th Cir 2012).

I would like to request that counsel for Brown and Harris confer with counsel who previously represented Brown and Harris in CV11-01725 about the prior declaration which had been served and filed by ASAP Copy and Print and Ali Tazhibi in that case. This declaration demonstrated that this plaintiff client of the law office (like others) was claiming harm by the method of application of CCP 391.7. Therefore, Brown and Harris were aware, before they filed the motion to dismiss and for sanctions, that the instant action was not to circumvent any order and that the harmed clients of the law office are not "window dressings". Said client has updated his declaration and it will be submitted in the ex parte application.

ASAP's case demonstrates that there was retaliation and viewpoint discrimination directly related to Aubry Family Trust. The defendants counsel in that proceeding made repeated filings in ASAP's case concerning the Aubry Family Trust claiming and/or inferring that ASAP should be treated as "vexatious" merely by association with the Law Office. Additionally, the defendant counsel who was making these filings also made the request to seal records completely dispositive to ASAP's case. The sealing order is addressed in the petition for writ of certiorari which will be included in the ex parte application. The defendant counsel making these claims was engaged in litigation in the federal court with a member of the probate task force. The plaintiffs in that federal litigation (whom my office and clients have no relation to) were raising grievances similar to the constitutional claims in the Aubry Family Trust litigation. ASAP and the Law Office had no knowledge of these adverse relationships and interests and these facts properly form the basis for the First Amendment claims (of impairment of associational interests, viewpoint discrimination, retaliation, blacklisting), and other claims of ASAP and all other clients (who have similar incidents).

The ex parte application will be submitted to:

The Honorable Judge John A. Mendez

United States District Court for the Eastern District
Courtroom No. 6, 14th Floor
501 "I" Street
Sacramento, CA 95814

Nina Ringgold, Esq.

January 31, 2013 email 10:35 a.m. from Office of the Attorney General to the Law Office of Nina Ringgold

Subj: **RE: Ex Parte Notification-2:12-CV-00717-JAM-JFM, Ringgold et al v. Brown et al**
Date: 1/31/2013 10:35:13 A.M. Pacific Standard Time
From: Catherine.Woodbridge@doj.ca.gov
To: nrringgold@aol.com
CC: David.Adida@doj.ca.gov, slau@mgslaw.com, toledo@mgslaw.com

On behalf of defendants Brown and Harris in THIS (2:12-cv-00717 JAM) case, I do not agree to vacate the 12/6/11 order and judgment issued by Judge Real. You know that I did not represent Brown and Harris in Judge Real's matter and I do not appreciate your attempt to bypass counsel of record. If you would like counsel of record in the matter of Ringgold-Lockhart v. County of LA, Case No. 11-1725 to agree to something then I suggest you contact that attorney.

As for your request that I stipulate to stay the sanction order in Eastern District matter, I do not agree. Nor will I agree to any stay of the proceedings. Should the Supreme Court order a response to your petition, I will provide an opposition. Please be assured that I do not believe your petition for cert. has any merit. Further, I do not believe that Canning v. NLRB will have any impact on the facts or ruling in the Eastern District matter.

Catherine W. Guess
Deputy Attorney General
Office of the Attorney General
1300 I Street
Sacramento, CA 95814
(916)445-8216
fax (916) 322-8288

From: Nrringgold@aol.com [mailto:Nrringgold@aol.com]
Sent: Wednesday, January 30, 2013 12:40 PM
To: Catherine Woodbridge; toledo@mgslaw.com
Subject: Ex Parte Notification-2:12-CV-00717-JAM-JFM, Ringgold et al v. Brown et al

Case No.: 2:12-CV-00717-JAM-JFM, Ringgold et al. v. Brown et al.

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Since urgent relief is required and this application is being made in advance of seeking relief in the United States Supreme Court and/or United States Court of Appeals, please let me know in advance or upon receipt whether you believe there can be a stipulation fashioned as to any of the relief requested and whether you will be opposing the application.

Also, please let me know whether you are willing to stipulate to vacate the order and judgment, agree that the December 6, 2011 order does not apply to all plaintiff clients of the law office (which is in fact all of the plaintiffs),

and allow an amended complaint to be filed as to all plaintiff clients of the law office. Also, let me know if you will stipulate to a certification order or to stay the sanction order. The ex parte application requests that the sanction solely be imposed against counsel and not the client and that there be a stay of enforcement and an alternative non-monetary order based on the inability to pay. See *Haynes v. City and County of San Francisco*, 688 F.3d 984 (9th Clr 2012).

I would like to request that counsel for Brown and Harris confer with counsel who previously represented Brown and Harris in CV11-01725 about the prior declaration which had been served and filed by ASAP Copy and Print and Ali Tazhibi in that case. This declaration demonstrated that this plaintiff client of the law office (like others) was claiming harm by the method of application of CCP 391.7. Therefore, Brown and Harris were aware, before they filed the motion to dismiss and for sanctions, that the instant action was not to circumvent any order and that the harmed clients of the law office are not "window dressings". Said client has updated his declaration and it will be submitted in the ex parte application.

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The ex parte application will be submitted to:

The Honorable Judge John A. Mendez
United States District Court for the Eastern District
Courtroom No. 6, 14th Floor
501 "I" Street
Sacramento, CA 95814

Nina Ringgold, Esq.

January 31, 2013 email 4:48 p.m. from Law Office of Nina Ringgold to Office of the Attorney General

Subj: **Re: Ex Parte Notification-2:12-CV-00717-JAM-JFM, Ringgold et al v. Brown et al**
Date: 1/31/2013 4:48:25 P.M. Pacific Standard Time
From: Nrringgold@aol.com
To: Catherine.Woodbridge@doj.ca.gov

In response, I think you are confused. The order and judgment which is the subject of the ex parte notice referenced above is dated 1.23.13 and it was entered in the United States District Court, Judge John A. Mendez not Judge Real.

You are also confused in your reference that there is some effort to bypass counsel of record. You are counsel of record in Case No. 12-cv-00717. If you have a substitution of counsel please file it and provide it to my office.

You were only provided with reminder that client plaintiffs ASAP Copy and Print and Ali Tazhibi had already provided a declaration explaining how they were being adversely impacted by CCP 391.7 and that a reasonable investigation and inquiry would have alerted you to the fact that your signed pleading in the motions for sanctions claiming that segments of the clients of this law office were bringing their claims in order to bypass the December 6, 2011 order (which does not apply to them) was (1) for an improper purpose, (2) not warranted by fact or law (particularly since the state attorney general's office was aware of the clients' verified statement). Although your office has known about the verified statement, my reminder was only to nudge you to comply with your ethical and professional obligation. This confirms this effort was unsuccessful.

As for your other unsolicited opinions, my office simply does not agree. How you determine to handle a response in the Supreme Court is only part of your internal affairs which I do not need to know about.

Thank you for letting me know your position.

Nina Ringgold, Esq.

In a message dated 1/31/2013 10:35:13 A.M. Pacific Standard Time, Catherine.Woodbridge@doj.ca.gov writes:

> On behalf of defendants Brown and Harris in THIS (2:12-cv-00717 JAM) case, I do not agree to vacate the 12/6/11 order and judgment issued by Judge Real. You know that I did not represent Brown and Harris in Judge Real's matter and I do not appreciate your attempt to bypass counsel of record. If you would like counsel of record in the matter of Ringgold-Lockhart v. County of LA, Case No. 11-1725 to agree to something then I suggest you contact that attorney.
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> As for your request that I stipulate to stay the sanction order in Eastern District matter, I do not agree. Nor will I agree to any stay of the proceedings. Should the Supreme Court order a response to your petition, I will provide an opposition. Please be assured that I do not believe your petition for cert. has any merit. Further, I do not believe that Canning v. NLRB will have any impact on the facts or ruling in the Eastern District matter.
>
> *Catherine W. Guess*
>
> Deputy Attorney General
>
> Office of the Attorney General
>
> 1300 I Street

Sacramento, CA 95814

(916)445-8216

fax (916) 322-8288

From: Nrringgold@aol.com [mailto:Nrringgold@aol.com]
Sent: Wednesday, January 30, 2013 12:40 PM
To: Catherine Woodbridge; toledo@mgslaw.com
Subject: Ex Parte Notification-2:12-CV-00717-JAM-JFM, Ringgold et al v. Brown et al

Case No.: 2:12-CV-00717-JAM-JFM, Ringgold et al. v. Brown et al.

Dear Counsel:

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Since urgent relief is required and this application is being made in advance of seeking relief in the United States Supreme Court and/or United States Court of Appeals, please let me know in advance or upon receipt whether you believe there can be a stipulation fashioned as to any of the relief requested and whether you will be opposing the application.

Also, please let me know whether you are willing to stipulate to vacate the order and judgment, agree that the December 6, 2011 order does not apply to all plaintiff clients of the law office (which is in fact all of the plaintiffs), and allow an amended complaint to be filed as to all plaintiff clients of the law office. Also, let me know if you will stipulate to a certification order or to stay the sanction order. The ex parte application requests that the sanction solely be imposed against counsel and not the client and that there be a stay of enforcement and an alternative non-monetary order based on the inability to pay. See *Haynes v. City and County of San Francisco*, 688 F.3d 984 (9th Clr 2012).

I would like to request that counsel for Brown and Harris confer with counsel who previously represented Brown and Harris in CV11-01725 about the prior declaration which had been served and filed by ASAP Copy and Print and Ali Tazhibi in that case. This declaration demonstrated that this plaintiff client of the law office (like others) was claiming harm by the method of application of CCP 391.7. Therefore, Brown and Harris were aware, before they filed the motion to dismiss and for sanctions, that the instant action was not to circumvent any order and that the harmed clients of the law office are not "window dressings". Said client has updated his declaration and it will be submitted in the ex parte application.

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The ex parte application will be submitted to:

The Honorable Judge John A. Mendez
United States District Court for the Eastern District
Courtroom No. 6, 14th Floor
501 "I" Street
Sacramento, CA 95814

Nina Ringgold, Esq.

CERTIFICATE OF SERVICE

I hereby certify that on April 26, 2013 I electronically filed the following documents with the Clerk of Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system:

EXHIBIT 56 TO AFFIDAVIT

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

The following person is not a registered CM/ECF user:

NONE

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and this declaration was executed on April 26, 2013 at Los Angeles, California.

s/ Matthew Melaragno

APPENDIX 17

9th Cir. Civ. Case No. _____
USDC Case No. CV12-00717-JAM-JFM

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

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

Petitioners,

v.

UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF CALIFORNIA,

Respondent,

JERRY BROWN in his Individual and Official Capacity as Governor of the State of California and in his Individual and Official Capacity as Former Attorney General of the State of California; KAMALA HARRIS in her Individual and Official Capacity as Current Attorney General of the State of California; COMMISSION ON JUDICIAL PERFORMANCE OF THE STATE OF CALIFORNIA as a state agency and constitutional entity, ELAINE HOWLE in her Individual and Official Capacity as California State Auditor and DOES 1-10.

Real Parties In Interest.

From the United States District Court for the Central District
The Honorable John A. Mendez

INDEX TO APPENDIX
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PETITION FOR SUPERVISORY AND/OR ADVISORY MANDAMUS PURSUANT TO 28 U.S.C. § 1651, PETITION FOR MANDAMUS AND/OR PROHIBITION OR OTHER APPROPRIATE RELIEF

NINA RINGGOLD, Esq. (SBN #133735)
Attorney for Petitioners
Law Offices of Nina R. Ringgold
9420 Reseda Blvd. #361, Northridge, CA 91324
Telephone: (818) 773-2409

DECLARATION OF ALI TAZHIBI

1. If called as a witness I could and would competently testify to the matters stated herein.

2. I am the owner of ASAP Copy and Print.

3. My company and I are parties in the case entitled *ASAP Copy and Print, Ali Tazhibi dba ASAP Copy and Print v. Canon Business Solutions Inc. et al.* Through the entirety of these proceedings which commenced on or about August 8, 2008 I have been represented by the Law Office of Nina Ringgold. My company and I are also parties in the case of *Nina Ringgold et al. v. Jerry Brown et al* and my company and I have been represented by the Law Office of Nina Ringgold through the entirety of these proceedings which commenced on or about March 21, 2012.

4. I have never been determined to be a vexatious litigant.

5. My company has never been determined to be a vexatious litigant.

6. I retained the Law Offices of Nina Ringgold to represent me and my company in the cases indicted above.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on January 24, 2013.

Ali Tazhibi

DECLARATION OF ALI TAZHIBI

1. If called as a witness I could and would competently testify to the matters stated herein.

2. I am the owner of ASAP Copy and Print.

3. My company and I are parties in the case entitled *ASAP Copy and Print, Ali Tazhibi dba ASAP Copy and Print v. Canon Business Solutions Inc., Canon Financial Services Inc., General Electric Capital Corporation* LASC Case No. PC043358. Through the entirety of these proceedings which commenced on or about August 8, 2008 I have been represented by the Law Office of Nina Ringgold.

4. I have never been determined to be a vexatious litigant.

5. My company has never been determined to be a vexatious litigant.

6. I retained the Law Offices of Nina Ringgold to represent me and my company in the case indicated above.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on August 29, 2011.

APPENDIX 18

FILED

APR 30 2013

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

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

In re: LAW OFFICES OF NINA RINGGOLD; et al.	No. 13-71484 D.C. No. 2:12-cv-00717-JAM-JFM Eastern District of California, Sacramento
LAW OFFICES OF NINA RINGGOLD; et al., Petitioners, v. UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO, Respondent, JERRY BROWN, in his Individual and Official Capacity as Governor of the State of California and in his Individual and Official Capacity as Former Attorney General of the State of California; et al., Real Parties in Interest.	ORDER

Before: TROTT and PAEZ, Circuit Judges.

Petitioners' request for judicial notice of: (1) General Order No. 533, from the United States District Court for the Eastern District of California and

SL/MOATT

(2) excerpts from the Local Rules for the United States District Court for the Central District of California is granted.

Petitioners' "emergency motion for immediate stay and injunction pending determination of petition for supervisory and/or advisory mandamus" is denied.

The petition and the applications for permission to file a petition "with extended page length" remain pending and will be addressed by separate order.

APPENDIX 19

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

In re: LAW OFFICES OF NINA RINGGOLD; et al.	No. 13-71484 D.C. No. 2:12-cv-00717-JAM-JFM Eastern District of California, Sacramento
LAW OFFICES OF NINA RINGGOLD; et al., Petitioners, v. UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO, Respondent, JERRY BROWN, in his Individual and Official Capacity as Governor of the State of California and in his Individual and Official Capacity as Former Attorney General of the State of California; et al., Real Parties in Interest.	ORDER

Before: O'SCANNLAIN, W. FLETCHER, and CALLAHAN, Circuit Judges.

Petitioners' application to file a petition "with extended page length" is granted.

KE/MOATT

Petitioners have not demonstrated that this case warrants the intervention of this court by means of the extraordinary remedy of mandamus. *See Bauman v. United States Dist. Court*, 557 F.2d 650 (9th Cir. 1977). Accordingly, the petition is denied.

No further filings will be entertained in this closed case.

DENIED.

APPENDIX 20

FILED

AUG 28 2013

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

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

NINA RINGGOLD; et al., Plaintiffs - Appellants, v. JERRY BROWN, in his Individual and Official Capacity as Governor of the State of California and in his Individual and Official Capacity as Former Attorney General of the State of California; et al., Defendants - Appellees.	No. 13-15366 D.C. No. 2:12-cv-00717-JAM-JFM Eastern District of California, Sacramento ORDER

Before: LEAVY and BERZON, Circuit Judges.

Appellants' August 19, 2013 emergency "Motion for Stay, Injunction, and Protective Order Pending Appeal" is denied.

Briefing remains suspended. All other pending motions are held in abeyance pending disposition of the August 23, 2013 order to show cause.

RJ/MOATT

APPENDIX 21

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

NINA RINGGOLD; et al., Plaintiffs - Appellants, v. JERRY BROWN, in his Individual and Official Capacity as Governor of the State of California and in his Individual and Official Capacity as Former Attorney General of the State of California; et al., Defendants - Appellees.	No. 13-15366 D.C. No. 2:12-cv-00717-JAM-JFM Eastern District of California, Sacramento ORDER

Before: SILVERMAN, BYBEE, and CHRISTEN, Circuit Judges.

A review of the record and the parties' responses to this court's August 23, 2013 order to show cause demonstrates that this court lacks jurisdiction over this appeal because the orders challenged in the appeal are not final or appealable. *See* 28 U.S.C. § 1291; Fed. R. Civ. P. 54(b); *Chacon v. Babcock,* 640 F.2d 221, 222 (9th Cir. 1981) (order is not appealable unless it disposes of all claims as to all parties or judgment is entered in compliance with rule); *Riverhead Sav. Bank v. Nat'l Mortgage Equity Corp.*, 893 F.2d 1109, 1113 (9th Cir. 1990) (Rule 11 sanctions order against party is not appealable collateral order); *see also WMX*

MF/Pro Se

Techs., Inc. v. Miller, 104 F.3d 1133, 1136 (9th Cir. 1997) (en banc) (dismissal of complaint with leave to amend is not appealable); *Branson v. City of Los Angeles*, 912 F.2d 334, 336 (9th Cir. 1990) (denial of reconsideration of non-appealable order is itself not appealable). Consequently, this appeal is dismissed for lack of jurisdiction.

All pending motions are denied as moot.

DISMISSED.

APPENDIX 22

9th Cir. Civ. Case No. _____
USDC Case No. 2:14-cv-03688-R-PLA

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

ASAP COPY AND PRINT, ALI TAZHIBI dba ASAP COPY AND PRINT, NINA RINGGOLD, ESQ AND THE LAW OFFICES OF NINA RINGGOLD,
Petitioners,

v.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA,
Respondent,

JERRY BROWN in his Individual and Official Capacity as Governor of the State of California and in his Individual and Official Capacity as Former Attorney General of the State of California et al.
Real Parties In Interest.

From the United States District Court for the Central District
The Honorable Manuel Real

PETITION FOR MANDAMUS AND/OR PROHIBITION OR OTHER APPROPRIATE RELIEF; PETITION FOR DESIGNATION AND ASSIGNMENT OF DISTRICT COURT JUDGE UNDER 28 U.S.C. § 292 (b) AND FOR CERITIFICATE OF NECESSITY UNDER 28 U.S.C. § 292 (d) TO THE CHIEF JUSTICE OF THE UNITED STATES

NINA R. RINGGOLD, ESQ.
(SBN (CA) 133735)
LAW OFFICE OF NINA R. RINGGOLD
9420 Reseda Blvd. #361
Northridge, CA 91324
Telephone: (818) 773-2409
Facsimile: (866) 340-4312
Attorney for ASAP Copy and Print, Ali Tazhibi dba ASAP Copy and Print

CHARLES G. KINNEY, ESQ.
(SBN (CA) 66428)
LAW OFFICES OF CHARLES G. KINNEY
5826 Presley Way
Oakland, CA 94618
Telephone: (510) 654-5133
Facsimile: (510) 594-0883
Attorney for Nina Ringgold, Esq. and the Law Offices of Nina Ringgold

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- Statement Of Related Cases
- Representation Statement

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UNITED STATES CONSTITUTION

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I. INTRODUCTION

Petitioners ASAP Copy and Print, Ali Tazhibi (collectively "ASAP"), Nina Ringgold, Esq. and the Law Offices of Nina Ringgold file this writ petition due to the clear error and extraordinary prejudice caused by a May 7, 2014 order which granted a motion to change venue from the United States District Court for the Northern District to the United States District Court for the Central District. (v1 Ex 8 BS 15-16).[1] The court had specifically entered an order stating that petitioners could file opposition and set a briefing order. (v1 Ex 9 BS 17-19). Without warning the next day it granted the motion to change venue. The May 7, 2014 order coincided with a briefing order entered in the case of *Arthur Gilbert v. Controller of the State of California,* California Court of Appeal Fourth Appellate District Appeal No. G049148 described herein. (v13 Ex 64 BS 2558-2559). There is no direct appeal from the May 7, 2014 order.

Relief by mandamus is also necessary because after the case was transferred to the United States District Court for the Central District, Judge Manuel Real, assigned the case to himself when (1) no notice of related cases by a party had been filed in the Central District, (2) no jointly signed voluntary transfer order had been entered, (3) the assigned judge, Judge Ronald S.W. Lew, had not entered a recusal order, and (4) there did not exist a basis for a case related transfer in the Central District. (v1 Ex 1-2 BS 1-4). There is no direct appeal from the June 4, 2014 order.

[1] Citation method: Volume No., Exhibit No., Bates Stamp Nos.

If there is any basis for transfer, the case should have been transferred to the district where a pending case with class based allegations is pending. *Law Offices of Nina Ringgold and All Current Clients Thereof v. Jerry Brown et al.* , (USDC (Eastern District) Case No. 12-cv-00717). (See Second Amended Class Action Complaint v10 Ex 57 BS 2040-2119).

Finally, this petition is filed pursuant to 28 U.S.C. § 292 (b) and (d) due to the extraordinary circumstances of this case.

28 U.S.C. § 292 in pertinent part states as follows:

> "(b) The chief judge of a circuit may, in the public interest, designate and assign temporarily any district judge of the circuit to hold a district court in any district within the circuit.
>
> (d) The Chief Justice of the United States may designate and assign temporarily a district judge of one circuit for service in another circuit, either in a district court or court of appeals, upon presentation of a certificate of necessity by the chief judge or circuit justice of the circuit wherein the need arises."

There are various cases arising in this Circuit that involve challenges to an uncodified provision of a California statute, section 5 of California Senate Bill X211 ("Section 5 of SBX2 11"). Petitioners claim that section 5 of SBX2 11 mandates an involuntary waiver of rights under federal law, the United States Constitution, and California Constitution Article VI § 17 and VI § 21. Unlike other challenges in the State of California, petitioners claim that the statute violates the Supremacy Clause, impairs their right to racial equality, and it is in direct conflict with Section 1 of the Civil Rights Act of 1866. They claim that they have suffered severe retaliation and

discrimination based on their viewpoint and valid legal position that the unconstitutional condition which exists should be disclosed to the users of public courts receiving substantial federal assistance. They claim there is targeted retaliation based on their position that there are existing constitutional vacancies of judicial office or self-effectuating constitutional judicial resignations, and for seeking a special judicial election under the Voting Rights Act of 1965 as amended. (42 U.S.C. § 1973) ("VRA").[2] It is their position that court users must receive constitutionally mandated disclosure and give their consent in the existing proceedings. (See v3 Ex 21 BS 319-353).

It is not surprising that the record shows a large number of recusals. In addition to satisfying the defendant residency requirement in the Northern District in the instant, the VRA case was filed in the Eastern District based on analysis and selection of the forum where there would be a lower possibility that a judge would be impacted by the constitutional controversy or would have a general or pecuniary interests in a judicial election or appointment to judicial office. (See v11 Ex 58 BS 2043 [Cpt ¶ 4], BS 2114). As discussed herein the nature of the issues are of fundamental

[2] ASAP Copy and Print, Ali Tazhibi, and other clients of the Law Office of Nina Ringgold on March 21, 2012 filed *Law Offices of Nina Ringgold and All Current Clients Thereof v. Jerry Brown et al.* , (USDC (Eastern District) Case No. 12-cv-00717 with class based allegations in the United States District Court for the Eastern District. That case, in part, seeks to implement a special judicial election under the VRA in the County of Los Angeles and other impacted counties.

importance to the fair administration of justice and present a valid basis for designation and appointment under 28 U.S.C. § 292.

Due to the substantial public interest, petitioners request that the Chief Justice of this Circuit, designate and assign temporarily a district judge outside the Circuit to determine the pending motions, the motion for judicial disqualification of Judge Real, and petitioners' motion for preliminary injunction. Petitioners request that this court immediately stay the proceedings in the district court and the state court pending determination by the assigned judge. (28 U.S.C. § 292 (b)). Alternatively, petitioners request that this court provide a certificate of necessity to the Chief Justice of the United States so that he may designate and assign temporarily a district judge outside the Circuit as to this case and related cases.

The need for the request to designate and assign a district judge outside the Circuit is shown by the record and also by recent events in the state court. On April 1, 2014 another challenge was filed to section 5 of SBX2 11. All judges of the Superior Court of the County of Los Angeles recused themselves and the proceedings were stayed until the Chairperson of the California Judicial Council (and Chief Justice of the Supreme Court) appointed a judge to preside over the case.[3]

[3] See v5-6 Ex 37 BS 1051-1075 [complaint, praecipe], v6 Ex 41-43 BS 1086-1108 [orders].

The errors of the May 7, 2014 and June 4, 2014 orders cannot be corrected by appeal from a final judgment and the standard for relief by writ of mandamus has been established in this case.

II. STATEMENT OF RELIEF SOUGHT

Petitioners are seeking (1) to reverse the May 7, 2014 order which transferred the case to the United States District Court for the Central District, (2) to reverse the June 4, 2014 order under General Order 14-03 which transferred the case to Judge Manuel Real and, (3) for designation and assignment under 28 U.S.C. § 292 (b) or for presentation of a certificate of necessity to the Chief Justice of the United States under 28 U.S.C. § 292 (d) so that he may designate and assign an out of circuit district court judge as to this case and related cases.

III. STATEMENT OF FACTS

A. Procedural Facts

On October 4, 2013 petitioners filed a complaint in the Northern District. The causes of action of the complaint include the following:

1. Declaratory, Injunctive, and Equitable Relief (Title 28 U. S. C. § 2201-2202)
2. Violation of the Public Trust Doctrine
3. Title 42 U. S. C. §§ 1981, 1982, 1983, 1985, 1986
4. Title II of ADA, 42 U.S.C. §§ 12131, 12132
5. 504 of the Rehabilitation Act
6. Violation of Civil Rights Act of 1964 (Title II §§ 201 (a), 202, 203, 42 U.S.C. § 2000a, 2000a-1, 2000a-2 & Title VI § 601, 42 U.S.C. § 2000d)
7. Violation of 18 U.S.C. 245 Federally Protected Rights
8. Cal. Gov. Code § 11135 et seq.
9. Violation of Cal. Civil Code § 51, 52

10. Violation of Cal. Civil Code § 51.7 & 52
11. Violation of Cal. Civil Code § 52.1 & 52
12. Violation Cal. Civil Code § 52.3
13. Violation Cal. Civil Code § 54, 54.1, 54.3, 55
14. Conversion
15. Equitable Relief and Imposition of Constructive Trust
16. Interference With Prospective Economic Advantage
17. Intentional Infliction of Emotional Distress
18. Negligent Infliction of Emotional Distress

(v3 Ex 21 BS 306-367)

The case was reassigned to Judge Jon S. Tigar after a declination to consent to a magistrate judge was filed. (v3 Ex 22 BS 368-370).

Judge Jon S. Tigar had been involved in proceedings relating to Ringgold's marital dissolution and after motion pursuant to 28 U.S.C. § 144 Judge Tigar entered an order of recusal on January 17, 2014. (v3 Ex 25 BS 379-380).

On January 21, 2014 the case was reassigned to Judge Susan Illston. (v3 Ex 26 BS 381-382). Judge Illston entered orders in the case including allowing an extension of time to serve the ADA coordinator for the Administrative Office of the Courts/California Judicial Council located in San Francisco who had been involved in the underlying proceedings. (v13 Ex 74 BS 2612 (Dkt 34)).

On February 13, 2013 defendants Benavidez, Bland, Boren, Carter, Casados, Chaparyan, Clarke, Fischer, Ghobrial, Kuhle, Lane, McCullough, McGuire, Mitchell, Scheper, Sortino, and the Superior Court of the County

of Los Angeles filed a motion to change venue and request for judicial notice. (v3-5 Ex 27-28 BS 383-862).

On March 18, 2014 Judge Illston entered an order of recusal. (v5 Ex 31 BS 874-875, 878-879). On this same day the case was reassigned to Judge Maxine M. Chesney. (v5 Ex 32 BS 876-877).

On March 28, 2014 petitioners filed a motion to disqualify Judge Chesney under 28 U.S.C. § 144 . The motion indicated that Judge Chesney had disqualifying interest due to her prior employment in the state court. The motion specified that there were at least 6 judges in the district which did not have prior employment in the state court or who were not impacted by the issues raised in this case. It indicated that Judge Susan Illston was one of those judge but for unknown reasons she had voluntarily recused herself. (v5 Ex 34-36).

On April 1, 2014 *Sturgeon v. County of Los Angeles et al*, Los Angeles Superior Court for the County of Los Angeles Case BC541213 was filed also raising issues concerning section 5 of SBX2 11 ("Sturgeon III"). (v5 Ex 37 BS 1051-1072). Unlike *ASAP Copy and Print et al v. Jerry Brown et al,* and the related VRA case, Sturgeon III does not involve a party who is actually involved in pending state court proceedings where the unconstitutional condition exists and or plaintiffs who are directly encountering retaliation and/or discrimination. Also, Sturgeon III's focus is not based on federal law or the direct conflict of section 5 of SBX2 11 with federal law pertaining to the right of racial equality. However, Sturgeon III, *Law Offices of Nina Ringgold*

and All Current Clients Thereof v. Jerry Brown et al., ASAP Copy and Print et al v. Jerry Brown et al, as well as other similar cases in the state and federal court, have all claimed that uncodified section 5 of SBX 211 is unconstitutional. The independent constitutional body associated with judicial conduct has also twice provided opinions that section 5 of SBX 2 11 is unconstitutional. (v5 Ex 37 BS 940-960).

On April 1, 2014 Judge Maxine Chesney entered an order of recusal. (v6 Ex 38 BS 1076-1077).

On April 2, 2014 the case was transferred to Judge Charles Breyer. (v6 Ex 39 BS 1078-1079).

On April 15, 2014 the judge in the state court assigned to Sturgeon III recused himself. (v6 Ex 41 BS 1086-1087).

On April 16-17, 2014 the entire court and all judges of the Los Angeles Superior Court for the County of Los Angeles recused themselves from the Sturgeon III case raising claims regarding section 5 of SBX2 11. The court ordered a stay and referred the matter to the Chairperson of the Judicial Council (Chief Justice of the California Supreme Court) for assignment of a judicial officer in the proceedings. (v6 Ex 43-44 BS 1088-1108).

On April 21, 2014 petitioners filed an application to modify the hearing date and briefing schedule and accommodation for disability. The application highlighted that defendants in the proceeding were intentionally retaliating and causing conflicts in the briefing schedule, were conducting proceeding still refusing to allow petitioners to use dispositive evidence in

contested proceedings, continuing the denial of ADA access to the court, and that defendant Justice Boren (who had direct pecuniary interest in the case) was refusing to recuse himself and intentionally interfering with the case. (v6-7 Ex 44-46 BS 1116, 1125-1135 (decl), 1109-1337).

Defendants had filed various motions to dismiss which were pending with the court. On April 28, 2014 petitioners filed opposition to the motions to dismiss and for sanctions filed by Canon Financial Services ("CFS"), opposition to CFS's request for judicial notice, and its request for judicial to be used in opposition to defendants' motions. (v7-13 Ex 48- 62 1465-2554).

On May 6, 2014 Judge Breyer granted petitioners' request for a modification of the briefing schedule and hearing date on all pending motions. The order provided that petitioners could file opposition to each motion where opposition had not yet been filed, including the motion to change venue. (v13 Ex 63 BS 2556-57).

On May 7, 2014 in a case which indirectly competes with this case and the VRA case and set for oral argument, *Arthur Gilbert v. Controller of the State of California*, the California Court of Appeal directed supplemental briefing on the following issues:

> "1. Does a person who has retired or resigned from a judicial office still qualify as a 'judge of a court of record,' as that term is used in Article VI, section 17 of the California Constitution?
>
> 2. If a person who has retired or resigned from a judicial office still qualifies as a judge of a court of record for purposes of Article VI, section 17, does that section prohibit such a person from practicing law?

> 3. Could interpreting the phrase 'judges of courts of record' to include a person who has resigned or retired from judicial office be consistent with the usage of that phrase in other sections of Article VI (e.g., section 19, which requires the Legislature to 'prescribe compensation for judges of courts of record')?"

(v13 Ex 64 BS 2558-2559).[4]

On May 7, 2014 Judge Charles Breyer entered an order granting the motion to change venue and transferring the case from the Northern District to the Central District. (v13 Ex 65 BS 2560-2561). The order conflicted with the May 6, 2014 order and prevented petitioners from filing opposition.

On May 14, 2014 the case was received in the Central District and assigned to Judge Dean D. Pregerson. (v13 Ex 67 BS 2564-2565).

On May 21, 2014 the case was reassigned due to self-recusal and transferred under General Order 08-05 to Judge Dolly Gee. (v13 Ex 68 BS 2566-2567).

On May 22, 2014 the case was reassigned due to self-recusal and transferred under General Order 08-05 to Judge Marian Pfaelzer. (v13 Ex 69 BS 2568-2569).

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[4] California Constitution Article VI 21 allows the parties to stipulate to proceedings before a member of the State Bar sworn and empowered to act until final determination of a cause. (See v4 Ex 35 BS 934). The order at issue in *Gilbert v. Controller of the State of California* do not involve the issues raised in the supplemental briefing order. (See v5 Ex 37 BS 1000-1026[decision, judgment]). They do relate to the issues raised by petitioners.

On May 29, 2014 the case was returned for reassigned and as assigned to Judge Otis Wright II. (v13 Ex 70 BS 2570-2571).

On May 30, 2014 the case was reassigned due to self-recusal and transferred under General Order 08-05 to Judge Ronald S. W. Lee. (v13 Ex 71 BS 2572-2573).

Judge Ronald S. W. Lee did not recuse himself. He did not voluntarily transfer the case to a different judge. No party had filed a notice of related cases in the Central District.

On June 2, 2012 the Central District adopted General Order 14-03 replacing General Order 05-08. (v2 Ex 18 BS 36-39, v13 Ex 72 BS 2574-2599). General Order 14-03 mandates random assignment except in limited instance where direct assignment is allowed. (v13 Ex 72 BS 2585) It does not allow a transfer order to be prepared by the clerk when no notice of related case has been filed in the district court. (Id. at 2596). It requires voluntary transfers to be jointly signed by the transferee and transferee judges. (Id at 2593). If an assigned judge voluntarily recuses himself the case is returned to the clerk for random assignment. (Id.)

On June 4, 2014 an Order Re Transfer Pursuant To General Order 14-03 (related cases) was entered when no notice of related case was filed in the Central District to engage the clerk to prepare a transfer order. The order bears the signature of Judge Manuel Real as consenting to transfer of the case to his calendar under General Order 14-03. (v13 Ex 1 BS 1-2).

The June 4, 2014 order identifies CV 09-09215 R as the related case. This case *Justin Ringgold-Lockhart et al v. Myer Sankary et al* does not involve ASAP, sealing of dispositive evidence in contested proceeding, a discriminatory marketing campaign directed at immigrant merchants, disability discrimination, or the claims of retaliation and viewpoint discrimination at issue in the October 4, 2014 complaint of petitioners. The complaint in CV 09-09215 R has no allegations concerning section 5 of SBX2 11 or the issues set forth in the complaint in this action including as to disability discrimination (because the disability alleged in the October 4, 2014 complaint did not even exist when CV 09-09215 was filed). (v11-12 Ex 58-59 BS 219402387 [complaint]). Case CV 09-09215 is currently on appeal in the Ninth Circuit. (See Appeal No. 11-57247)[5].

The first filed case in the federal court involving ASAP was filed on March 21, 2012, *Law Offices of Nina Ringgold and All Current Clients Thereof v. Jerry Brown et al.* , (USDC (Eastern District) Case No. 12-cv-00717). (See Amended on February 13, 2013, v10 Ex 57 BS 2040-2119). Later, on November 28, 2012, ASAP filed a civil rights removal similar to others in the proposed representative class. (See notice of related cases, ASAP removal pending in this court as Appeal No. 13-55307).

A. General Background

[5] One issue involved in the appeal is whether leave to amend should have been granted to raise changes in law and new evidence including but not limited to section 5 of SBX2 11.

Plaintiff ASAP, Tazhibi, is an American citizen of Iranian descent and his counsel of record, Ringgold ("Ringgold"), is African American and person with a disability under the Americans with Disabilities Act and the Rehabilitation Act. Both are members of a protected class.

The causes of action of the complaint include the following:

1. Declaratory, Injunctive, and Equitable Relief (Title 28 U. S. C. § 2201-2202)
2. Violation of the Public Trust Doctrine
3. Title 42 U. S. C. §§ 1981, 1982, 1983, 1985, 1986
4. Title II of ADA, 42 U.S.C. §§ 12131, 12132
5. 504 of the Rehabilitation Act
6. Violation of Civil Rights Act of 1964 (Title II §§ 201 (a), 202, 203, 42 U.S.C. § 2000a, 2000a-1, 2000a-2 & Title VI § 601, 42 U.S.C. § 2000d)
7. Violation of 18 U.S.C. 245 Federally Protected Rights
8. Cal. Gov. Code § 11135 et seq.
9. Violation of Cal. Civil Code § 51, 52
10. Violation of Cal. Civil Code § 51.7 & 52
11. Violation of Cal. Civil Code § 52.1 & 52
12. Violation Cal. Civil Code § 52.3
13. Violation Cal. Civil Code § 54, 54.1, 54.3, 55
14. Conversion
15. Equitable Relief and Imposition of Constructive Trust
16. Interference With Prospective Economic Advantage
17. Intentional Infliction of Emotional Distress
18. Negligent Infliction of Emotional Distress

The Tazhibi is a small immigrant merchant who, like many other immigrant merchants, was targeted in a discriminatory marketing campaign concerning photocopying equipment run through CFS and Canon Business Solutions ("CBS") called the "Print for Pay Marketing

Promotion". (v3 Ex 21 BS 306-367[Cpt ¶ 56]). CBS is not a licensed finance lender in the State of California. It cannot sell or negotiate "finance leases" without a proper license. In the marketing campaign the CBS sales force provided the targeted immigrant customers with a sales agreement which contains a promise of free toner, free supplies, and free maintenance with a 3 year customer satisfaction guarantee. The sales agreement is governed under the law of the State of California and does not have an attorney fee provision. (v3 Ex 21 BS 306-367[Cpt ¶ 60]). Without an executed certificate of acceptance and without the immigrant customer having contact with a finance lender, CFS assigns a document called a "cost per copy non-cancellable rental agreement"[6] to a third party (in this case GE) to nullify everything promised in the marketing promotion). Before expiration of the three year guarantee on the equipment and after receipt of payments for the full value of the equipment, CFS and CBS discontinue the promised services, maintenance, and supplies leaving the immigrant customer with unsuable equipment. GE then engages in outrageous collection activity against the customer under a false claim that a finance lease has been assigned in order to coerce payments never agreed to or authorized. On GE's collection demands for immediate payment, GE then claims that it is a holder in due course (when it is not), claims it cannot deliver the promised services, maintenance, supplies under the 3 year customer satisfaction guarantee, and threatens to sue the immigrant merchant. CFS claims that

[6] CFS, CBS, and GE refer to this document as an alleged "finance lease".

the immigrant merchant must litigate any claim in the State of New Jersey rather than in the State of California. (See v3 Ex 21 BS 306-367[Cpt ¶ 57]).

ASAP filed an action in the state court for declaratory and injunctive relief, unfair business practices, unlawful assignment, and other claims against CFS and others on August 4, 2008 in the Superior Court of the County of Los Angeles. ASAP and its counsel Nina Ringgold ("Ringgold") were completely unaware that another immigrant merchant, Jashmid Aryeh of ABC Copy and Print had brought a similar action as Ali Tazhibi of ASAP Copy and Print. Jashmid Aryeh's complaint included class based allegations and unlike Ali Tazhibi, Aryeh's litigation obstacle was that Canon claimed a statute of limitations defense. See Aryeh v. Canon Business Solutions, 55 Cal.4th 1185 (Cal. 2013). (See v3 Ex 21 BS 306-367[Cpt ¶ 58-59]).

After ASAP's case was filed, on October 10, 2008 the California Court of Appeal determined that the judges of the courts of record were engaged in public employment with the County of Los Angeles. Sturgeon v. County of Los Angeles, 167 Cal.App.4th 630 (Cal. 2008) ("Sturgeon I"). Under California Constitution Art. VI § 19 the compensation was deemed unconstitutional. (v3 Ex 21 BS 306-367[Cpt ¶ 33, 34]). Sturgeon I uncloaked the existence of a constitutional resignation of the judges in the courts of record in the County of Los Angeles under California Constitution Art. VI § 17. It was plainly evident that disclosure to court users and consent of court users was mandated by California Constitution

Art. VI §§ 17, 21. Subsequently the Legislature enacted section 5 of Senate Bill x211 ("section 5 of SBX2 11") in an uncodified provision of law. Section 5 of SBX2 11 creates an involuntary waiver of rights under the United States Constitution and federal law, an immunity from conduct including civil liability, criminal prosecution, or disciplinary action. The California Commission on Judicial Performance has twice held that SBX2 11 is unconstitutional. (v3 Ex 21 BS 306-367[Cpt 36-46]).

The complaint alleges that the state court proceedings are being conducted without a judicial function and without the mandatory requirement of disclosure and consent. (v3 Ex 21 BS 306-367[Cpt ¶ 49, 105-106, 111, 114-115]). ASAP would have never consented and does not consent to proceedings in which it is barred use of evidence to prove its case.

Due to the grievances and positions taken by ASAP and its counsel including but not limited to advocating to implement a monitored special judicial election under the Voting Rights Act, they have been subjected to extraordinary discrimination, retaliation, and viewpoint discrimination in violation of the First Amendment. (v3 Ex 21 BS 306-367[Cpt ¶ 49-61]). The defendants in the underlying case participated in this conduct by initiating a sealing condition of dispositive evidence without a motion to seal and causing entry of orders which falsely indicate that ASAP and its counsel agreed to the sealing condition and to damages if they attempted to use the sealed documents. Also, CFS pursued sanctions and claimed that a pre-

filing injunction should be applicable to requests an accommodation for disability when ASAP's counsel was involved in a medical emergency. (v3 Ex 21 BS 306-367[Cpt ¶ 55- 63, 90, 110, 114, 128-145, 156, 175, 194]).

Neither Tazhibi nor ASAP have ever been determined to be vexatious litigants in any court in the United States. The California Vexatious litigant statute does not pertain to persons represented by counsel or to attorneys of record practicing their profession in the normal course. See Shalant v. Girardi, 51 Cal.4th 1164 (Cal. 2011) (RJN0280-289 (v5)), Weissman v. Quail Lodge Inc., 179 F.3d 1194 (9th Cir. 1999). It was only after ASAP's case was filed, and viewpoints and grievances were asserted in a different case, that the issue and claims of vexatious litigant status and various forms of retaliation came into play in the case of ASAP. (v3 Ex 21 BS 306-367[Cpt ¶3, 50-55, 81, 82,115].

ASAP's case was dismissed based on the extrinsic fraud of CFS and others including but not limited to as to the sealed documents. ASAP's case was dismissed before production of the sealed documents. ASAP's counter complaint against CFS was not determined by demurrer or an adjudication in the state court. Instead it was dismissed as a sanction against non-party (Ringgold), while both ASAP and its counsel were deprived use of dispositive evidence (sealed documents) for purposes of adjudication in contested proceedings and a pre-filing injunction was applied against ASAP when it had never been determined to be a vexatious litigant. It was applied against its attorney when she was not a party in the

proceedings in order to prevent presentation of defenses in contested proceedings. (v3 Ex 21 BS 306-367[Cpt ¶ 61]). There is no judgment on ASAP's cross-complaint or direct ruling against ASAP. ASAP cannot be construed as a party to the ADA administrative proceedings that adversely impacted its legal rights in the case and its access to the court through its legal representative. (See v3 Ex 21 BS 306-367[Cpt ¶114 line15-17, 128-162]).

IV. ARGUMENT

A. Review Standard

The Chief judge of the Ninth Circuit is guided solely by the public interest in determining whether to designate and assign an out of circuit district court judge to sit in a case. The same is true for his determination of whether to present a certificate of necessity to the Chief Justice of the United States. There is no need to conduct a poll before issuing a certificate of need. See U.S. v. Clairborne, 870 F.2d 1463 (1989).

The general standard for issuing a writ of mandamus pursuant to 28 U.S.C. § 1651 were established in the five factors addressed in Bauman v. United States District Court, 557 F.2d 650 (9th Cir. 1977). Satisfaction of all five factors is not required to obtain relief by mandamus. See In re Cement Antitrust Litigation (MDL No. 296), 688 F.2d 1297, 1301 (9th Cir. 1982) (five factors are part of an analytical framework), San Jose Mercury News, Inc. v. United States Dist. Cr.-Northern Dist. (San Jose), 187 F.3d 1096 (9th Cir. 1999) (mandamus appropriate even when a direct appeal was available), .

Supervisory mandamus is proper when an adequate alternative means of review is unavailable, there is a showing of substantial harm to the public's interest which is not correctable on appeal, the district court's order is clearly erroneous, or the matters present significant issues of first impression that may repeatedly evade review. See Perry v. Schwarzenegger, 591 F.3d 1147, 1154, 1159 (9th Cir. 2010), 28 U.S.C. § 1651 (a). It can be used to correct an established trial court practice that significantly distorts proper procedures. See United States v. Horn, 29 F.3d 754, 769 n. 19 (1st Cir. 1994). This form of mandamus is appropriate when "a question anent to the limits of judicial power, poses some special risk of irreparable harm to the appellant, and is palpably erroneous." Id. at 769; In re Cargill, Inc. 66 F.3d 1256, 1260 (1st Cir. 1995) (i.e. where petitioners can "show both that there is a clear entitlement to the relief requested and that irreparable harm will likely occur if the writ is withheld.").

Advisory mandamus is not directed at established practices but rather at issues that may be novel, of public importance, or likely to recur. As to advisory mandamus petitioners do not need to demonstrate irreparable harm or clear entitlement to relief. See In re Sony BMG Music Entertainment, 564 F.3d 1, 4 (1st Cir. 2009)("When advisory mandamus is in play, a demonstration of irreparable harm is unnecessary."); In re Atlantic Pipe Corp., 304 F.3d 135, 140 (1st Cir. 2002)(a systemically important issue which the court has not yet addressed.) .

B. Petitioners Have Demonstrated Grounds For The Relief Sought Under 28 U.S.C. § 292.

The California Legislature secretly enacted, section 5 of SBX 2 11, an uncodified super immunity provision concerning an existing unconstitutional condition which has not been disclosed to the general public. On its face the uncodified provision forces litigants in pending proceedings to, involuntarily and without notice, waive rights guaranteed under the United States Constitution and federal law. It directly conflicts with the plain language of Section 1 of the Civil Right Act of 1866. Petitioners who have been barred use of dispositive evidence in contest proceedings and denied reasonable access to the court certainly have a reasonable basis demand disclosure and consent mandated under state constitutional authority in the existing proceedings.

Due to the fact that the matters at involve issues concerning judicial conduct and the general and pecuniary interest of both state and federal judges within this circuit, there is a particular need for use of the procedures of 28 U.S.C. § 292. On the civil rights removal involving the ASAP case, now pending in this court, those general and pecuniary interests came into focus. It was discovered that the District Court judge had not disclosed during the entire proceedings in the lower court that she was seeking a judicial appointment in the California Court of Appeal for

the Second Appellate District by defendant Governor Jerry Brown.[7] Due to the nature of the legal issues, and without any disrespect to any particular judge, the nature of the legal issues require serious consideration of the general and pecuniary interest which impact fairness and public confidence in the proceedings. Due to the high number of recusals it is appropriate for this court to provide a certificate of necessity to the Chief Justice of the United States under 28 U.S.C. § 292 as the best course of action to provide a fair proceeding and promote public confidence. "The legitimacy of the Judicial Branch ultimately depends on its reputation for impartiality and nonpartisianship." See Mistretta v. United States, 488 U.S. 361, 407 (1989). There are various actions which the Chief Justice may thereby forward to this designated judicial officer which involve related issues. Alternatively, the chief judge of this court appropriately may determine that it is in the public interest to temporarily designate a district court judge. Like the Chief Justice of the California Supreme Court designating and assigning a specific judge on the issues is appropriate.

[7] In the pending VRA case requesting a special judicial election and implementation of disclosure and consent procedures, the judge would have to run in a contested election after a public declaration of the existence of judicial vacancy of office. However, if appointed before such declaration the judge would avoid the class action demand of a contested election in the municipal district and only be subjected to a retention election. Therefore, the judge had a direct interest in the subject matter in the cases.

C. The Factors For Mandamus Jurisdiction Has Been Satisfied.

1. Petitioners Do Not Have Other Means, Such As a Direct Appeal, To Attain the Relief Desired.

The May 7, 2014 order granting the motion to change venue is not appealable and immediate review can only be had by mandamus. Since the court unambiguously specified that petitioners could file opposition there exists exception circumstances warranting relief. See Town of North Bonneville, Wash. v. United States Dist. Ct. 732 F.2d 747, 740 (9th Cir. 1984). Additionally, the June 4, 2014 transfer and assignment order is not final order appealable order. 28 U.S.C. § 1291.

This petition for writ of mandamus is the only method by which Petitioners can attain the relief desired.

2. The May 7, 2014 and June 4, 2014 Orders Are Clearly Erroneous

a. The May 7, 2014 Order

The May 7, 2014 order grants the motion to change venue under 28 U.S.C. § 1404 (a) which states:

> "(a) For the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought or to any district or division to which all parties have consented."

Petitioners clearly did not consent to transfer and did not agree that transfer was for the convenience of parties and witness or in the interest of

justice. In this case the district court failed to exercise discretion because it recognized the need to hear from all parties by entering a briefing order, but then it acted before the time before petitioners' opposition to the motion was due. The issue of whether the court should have exercised its discretion presents a legal question subject to de novo review. See Kennedy v. Applause, 90 F.3d 1477 (9th Cir. 1996). The issue on de novo review is not determination of the motion that petitioners' were barred from opposing, but whether a fair consideration of the motion required the position of all parties favoring and opposing change of venue. Since the motion involved disputed legal, factual, and evidentiary issues (including a lengthy contested request for judicial notice) there is clear error warranting reversal of the May 7, 2014 order.

Transfer for the convenience of parties and witnesses, in the interest of justice, is not to be liberally granted. Campbell v. Mitsubishi Aircraft Intern., Inc. 416 F.Supp. 1225 (W.D. Pa. 1976). Moreover, a motion to transfer a case to a different district for the convenience of parties and witnesses and in interest of justice should be denied where interests are evenly balanced, in view of plaintiff's right to choose the forum. Peyser v. General Motors Corp., 158 F.Sup. 526 (S.D.N.Y. 1958).

The case involves specific events which took place in the area in the Northern District and involves witnesses and parties in the area of the Northern District. The court is to consider both the convenience of parties and witnesses and the interest of justice. The May 7, 2014 order could not

consider these factors without hearing from the petitioners. The claim that none of the events took place in the Northern district was patently untrue because the many events took place in San Francisco with respect to the ADA issues and one of the key ADA coordinators and defendant in the case, Linda McCullough, is located in San Francisco. (v13 Ex 74 BS 2602-2626 [dkt no. 34]. In fact, Judge Illston made orders extending the time to serve due to the difficulty in serving defendants in the San Francisco area including but not limited to the ADA coordinator of the Administrative Office of the Courts/California Judicial Council (McCullough). Also, all three of the corporate defendants and Brown and Harris have significant contact and location in the Northern District.

Regardless of what argument and evidence raised and presented by defendants on the motion to change venue, it was an error of law to bar petitioners from opposing the asserted position.

b. The June 4, 2014 Order

Cases are assigned among judges in a manner prescribed by local rules and general orders of the court. 28 U.S.C. § 137. Interpretation of a court rule is an issue of discretion. However whether the rule was actually followed is a question of law. Here, the case should have never been transferred to the Central in the first place. And, after the erroneous transfer, and the multiple recusals (only confirming that the venue was not appropriate), there was clear error by the entry of the June 4, 2014 order.

The newly adopted General Order No. 14-03 specifies that "any case may be transferred from one judge to another by order jointly signed by the transferor and transferee judge." (II.C. Voluntary Transfer). Judge Real and Judge Lew did not sign a order for voluntary transfer and Judge Lew did not enter an order voluntarily recusing himself from the May 30, 2014 random assignment. (v1 Ex 2 BS 3-4).

There was no notice of related cases filed by any party in the Central District and a case related transfer requires a party to file a notice of related cases. (II.I. Related Cases).

ASAP and Ali Tazhibi are not a parties to the identified case 09-cv-09215 in the June 4, 2014 order. The underlying case involving the petitioners involving a discriminatory marketing campaign of a national supplier of copying equipment targeted to immigrant merchants did not a related case to a case involving a private family trust.

To the extent the notice of related cases was filed in a different court that did not provide a basis for transfer to Judge Real. General Order 14-03 does not apply across different District Courts. If General Order 14-03 could be construed as applying across different district courts then the transfer should have been to the first filed case involving ASAP Copy and Print and Ali Tazhibi as parties in the Eastern District where the VRA case is proceeding.

3. Petitioners Will Be Damaged or Prejudiced In A Way That Is Not Correctable On Appeal

Petitioners have a right to their choice of forum and to be heard on the issue of whether the forum should be modified. An appeal cannot correct the error of the May 7, 2014 and June 4, 2014 orders. There is no available method for effective review or relief except by mandamus.

The June 4, 2014 order engenders prejudice which is entirely unwarranted. Pending in this court since December 27, 2011 is an appeal from an order dated December 6, 2011 of Judge Real imposing a pre-filing order as to Ringgold. Approximately seven month ago oral argument was conducted on December 3, 2013. Appeal No. 11-57231 *Ringgold-Lockhart et al v. County of Los Angeles.* (See AOB at v10 Ex 56-57 BS 1929-1993). The case has nothing to do with ASAP or Ali Tazhibi. The order challenged on appeal has nothing to do with Ringgold practicing law as an attorney. The order was entered when Ringgold had only filed two cases in the Central District. (See v10 Ex 57 BS 198-1973). Clearly, defendants' motion to change venue was intended to have the case transferred to the Central District in order to cause specific prejudice to both petitioners and the case. (See Argument in Opp to CFS mtn to dismiss at v7 Ex 48 BS 1465-1487).

Administrative orders made under local rules of a particular district labeling a person or entity as a vexatious litigant apply only to that district as referenced in Molski v. Evergreen Dynasty, 500 F.3d 1047, 1056 (9th Cir.

2007).[8] However, there does not exist a consistent objective standard in this Circuit. The matter is a systemically important issue and it is fundamental to obtaining fair and reasonable access to the federal court. See In re Atlantic Pipe Corp. at 140. As to advisory mandamus there is no requirement for petitioners to show irreparable harm although it is present in this case because there never was a valid basis for transfer without allowing them to be heard. See In re Sony BMG Music Entm't at 4. The damage cannot be corrected by appeal.

Local Rules of a particular district court must be made after public notice and comment and by majority vote of the judges of that court. 28 U.S.C. § 2071, Fed. Rule of Civ. Proc, Rule 83. The Northern District has not deemed any petitioner to be a vexatious litigant and its rules do not adopt by reference the local rules of the Central District or the California Vexatious Litigant Statute. Any local rule must be consistent with Acts of Congress and the rules of practice and procedure prescribed by the Supreme Court under 28 U.S.C. § 2072. See 28 U.S.C. § 2071 (a), Fed. Rule of Civ. Proc, Rule 83. Rule 83 which prohibits the adoption of a local rule or practice that is inconsistent with the Federal Rules or that enforce the requirement in a way that causes a loss of any right because of a nonwillful failure to comply.

[8] (See fn 19herein).

As this court noted in Weissman, the Central District is the only district which allows the court at its discretion to proceed by reference to the California Vexatious Litigant statute and it is segments of this state statute that petitioners are challenging. The Chief Justice of this court questioned the application of the Central District's local rule to cut off access to other judges in the Central District. Molski at 521 F.3d 1215, 1221-1222.

The prejudice to petitioners is evident because in part they contend that the state statute referenced in the local rule of the Central District is being applied in the state court against persons or entities, such as ASAP and Ali Tazhibi, when the have never been determined to be "vexatious" under the statute or when there never has been a mandatorily statutory due process motion in the trial court as a form of retaliation and viewpoint discrimination. Therefore, the May 7, 2014 and June 4, 2014 in addition to be clearly in error, cause harm that cannot be corrected on appeal.

4. The Orders Manifest An Oft-Repeated Error

There are repeated errors with respect to transfers in the Central District under the General Orders regarding assignment of cases satisfying the fourth Bauman factor. These errors can be seen from the case related transfer order at issue in the related cases now on appeal. [9] General Order 14-03 still provides generally for random assignments (and allowing direct

[9] See Appeal No. 13-55039 transfer order signed under signature of another judge and no jointly signed voluntary transfer order, Appeal No. 13-55040 case related transfer order without a notice of related case.

assignment in particular cases) and for a notice of related case. Petitioners show an oft-repeated error and confusion in the district courts as assignment of cases without a notice of related cases filed in that District, transfers when a judge has not entered an order of recusal, and jointly signed voluntary transfer orders. The administrative procedures of assignment when not objectively determine undermines public confidence that the proceedings are being conducted in a fair and neutral manner.

5. The Matters Raised Are Fundamentally Related To Issues Of First impression.

Although the May 7, 2014 and June 4, 2014 order do not directly address issues of first impression. However, there is an inference by the timing of the May 7, 2014 order expediting transfer of the case to the Central District was in response to the May 7, 2014 supplemental briefing order in Sturgeon III. The briefing order is clearly in response to the primary legal arguments of petitioners in this case and the VRA case. Since petitioners' claims are based on federal law and claims and issue of first impression. This is all the more reason that they should be allowed to be heard on the selection on the forum of this choice and to serious consideration as to their request that the designation and assignment be made under the procedures of 28 U.S.C. § 292.

Supervisory mandamus is appropriate because at this procedural juncture and the pending civil rights removal appeals it is this court which has the record to understand the issues raised by persons who claim that section 5 of SBX2 11 impairs their rights to racial equality and their claims

of retaliation and viewpoint discrimination. The claims of court users concerning section 5 of SBX2 11 are neither frivolous nor vexatious. "Discrimination against speech because of its message is presumed to be unconstitutional." Rosenberger v. Rector and Visitors of University of Virginia, 514 U.S. 819, 828 (1995). See also Turner Broadcasting Systems, Inc. v. FCC , 512 U.S. 622, 642-43 (1994)(Discrimination based on viewpoint violates the First Amendment); Legal Services Corporation v. Velazquez , 531 U.S. 533 (2001) (impermissible viewpoint discrimination to restrict legal representation to prevent advising clients that certain laws are unconstitutional). The impact of the orders at herein is to force petitioners in a forum which is improper in order to confuse the issues and marginalize certain viewpoints in an important public debate

V. CONCLUSION

For the forgoing reasons petitioners request that this court grant the relief sought herein. They request that this court grant the motion for immediate stay and injunction during pendency of review.

Dated: June 6, 2014

LAW OFFICE OF NINA R. RINGGOLD

By: s/ Nina R. Ringgold, Esq.
Nina Ringgold, Esq.

LAW OFFICE OF CHARLES G. KINNEY
By: s/ Charles G. Kinney, Esq.
Charles Kinney, Esq.

CERTIFICATE OF SERVICE

I hereby certify that on June 6, 2014 I electronically filed the following documents with the Clerk of Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system:

PETITION FOR MANDAMUS AND/OR PROHIBITION OR OTHER APPROPRIATE RELIEF; PETITION FOR DESIGNATION AND ASSIGNMENT OF DISTRICT COURT JUDGE UNDER 28 U.S.C. § 292 (b) AND FOR CERITIFICATE OF NECESSITY UNDER 28 U.S.C. § 292 (d) TO THE CHIEF JUSTICE OF THE UNITED STATES

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

The following person is not a registered CM/ECF user and was served by standard overnight mail:

For the Respondent Court
Judge Manuel L. Real
United States District Court for the Central District
312 N. Spring Street - Second Floor
Los Angeles, CA 90012

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and this declaration was executed on June 6, 2014 at Los Angeles, California.

s/ Matthew Melaragno

9th Cir. Civ. Case No. _____
USDC Case No. 2:14-cv-03688-R-PLA

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

ASAP COPY AND PRINT, ALI TAZHIBI dba ASAP COPY AND PRINT, NINA RINGGOLD, ESQ AND THE LAW OFFICES OF NINA RINGGOLD,
Petitioners,

v.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA,
Respondent,

JERRY BROWN in his Individual and Official Capacity as Governor of the State of California and in his Individual and Official Capacity as Former Attorney General of the State of California et al.
Real Parties In Interest.

From the United States District Court for the Central District
The Honorable Manuel Real

STATEMENT OF RELATED CASES

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Attorney for Nina Ringgold, Esq. and the Law Offices of Nina Ringgold

STATEMENT OF RELATED CASES

Petitioners submit that the following cases are related or may be related pursuant to Circuit Rule 28-2.6.

Class Action Complaint Including Claims Under The Voting Rights Act As Amended In The United States District Court For The Eastern District

Law Offices of Nina Ringgold and All Current Clients Thereof v. Jerry Brown et al. , (USDC (Eastern District) Case No. 12-cv-00717

Cases Arising From Removal In Part Under The Civil Rights Removal Statutes (Section 3 of Civil Rights Act of 1866, Title IX of the Civil Rights Act of 1964) –Clients of Law Office of Nina Ringgold That Object to Involuntary Waiver of Rights Under Federal law, United States Constitution, the Supremacy Clause And Under California Constitution Article VI § 17 and Article VI § 21 Caused By Section 5 of California Senate Bill X211

Thomas McCullough Jr. as Special Administrator v. Nathalee Evans as named executor, Dorian Carter
Appeal Docket Number: 13-55349, 13-55351 (consolidated)

Dorian Carter v. Nathalee Evans et al
Appeal Docket Number: 13-55049

U.S. Bank National Association as Trustee, Successor In Interest To Bank Of America, National Association As Successor By Merger To LaSalle Bank NA As Trustee For WaMu Mortgage Pass-Through Certificates Series 2006-AR12 Trust v. Nazie Azam
Appeal Docket Number: 13-55729

U.S. Bank National Association as Trustee, Successor In Interest To Bank Of America, National Association As Successor By Merger To LaSalle Bank NA As Trustee For WaMu Mortgage Pass-Through Certificates Series 2006-AR12 Trust

v. Nazie Azam
BAP Appeal Docket Number: 13-1538

Hartford Casualty Insurance Company et al v. Cornelius Turner et al.
Appeal Docket Number: 13-55039

Hartford Casualty Insurance Company et al v. Cornelius Turner et al.
Appeal Docket Number: 14-55361

Myer Sankary, California Court of Appeal Second Appellate District Division Five, Presiding Justice Paul Turner v. Greta Curtis, Esq. Law Offices of Greta Curtis et al.
Appeal Docket Number: 13-55040

Myer Sankary v. Nina Ringgold in her capacity as named trustee of inter vivos Trust, Justin Ringgold-Lockhart
Appeal Docket Number: 13-55063

Dated: June 6, 2014

LAW OFFICE OF NINA R. RINGGOLD

By: s/ Nina R. Ringgold, Esq.
Nina Ringgold, Esq.
Attorney for Petitioners ASAP Copy and Print and Ali Tazhibi dba ASAP Copy and Print

LAW OFFICE OF CHARLES G. KINNEY

By: s/ Charles G. Kinney, Esq.
Charles Kinney, Esq.
Attorney for Petitioners Nina Ringgold and the Law Offices of Nina Ringgold

CERTIFICATE OF SERVICE

I hereby certify that on June 6, 2014 I electronically filed the following documents with the Clerk of Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system:

STATEMENT OF RELATED CASES

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and this declaration was executed on June 6, 2014 at Los Angeles, California.

s/ Matthew Melaragno

9th Cir. Civ. Case No. _____
USDC Case No. 2:14-cv-03688-R-PLA

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

ASAP COPY AND PRINT, ALI TAZHIBI dba ASAP COPY AND PRINT, NINA RINGGOLD, ESQ AND THE LAW OFFICES OF NINA RINGGOLD,
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v.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA,
Respondent,

JERRY BROWN in his Individual and Official Capacity as Governor of the State of California and in his Individual and Official Capacity as Former Attorney General of the State of California et al.
Real Parties In Interest.

From the United States District Court for the Central District
The Honorable Manuel Real

AFFIDAVIT IN SUPPORT OF PETITION FOR MANDAMUS AND/OR PROHIBITION OR OTHER APPROPRIATE RELIEF; PETITION FOR DESIGNATION AND ASSIGNMENT OF DISTRICT COURT JUDGE UNDER 28 U.S.C. § 292 (b) AND FOR CERITIFICATE OF NECESSITY UNDER 28 U.S.C. § 292 (d) TO THE CHIEF JUSTICE OF THE UNITED STATES AND IN SUPPORT OF MOTION FOR IMMEDIATE STAY AND INJUNCTION PENDING DETERMINATION THEREOF (Time Sensitive Date of June 16, 2014)

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AFFIDAVIT OF COUNSEL

1. I am the attorney of record for the petitioner ASAP Copy and Print and Ali Tazhibi ("ASAP"). If called as a witness I could and would competently testify to the matters stated herein.

2. This affidavit is submitted in support of the petition for mandamus and/or prohibition or other appropriate relief; petition for designation and assignment of District Court Judge under 28 U.S.C. § 292 (b) and for certificate of necessity under 28 U.S.C. § 292 (d) to the Chief Justice of the United States. It is also submitted in conjunction with the motion for immediate stay and injunction pending determination of the writ petition.

3. Incorporated by this reference are the writ petition and the appendix filed in support of the writ petition. The appendix consists of exhibits 1-13, bates stamp number 1-2626.

Circuit Rule 27-3 Certification

4. **I certify pursuant to Circuit Rule 27-3 that this motion is filed in order to avoid irreparable harm and that action is needed as soon as possible and by no later than June 16, 2014. There has already been significant irreparable harm to petitioners and to the extent possible petitioners respectfully request an immediate temporary stay pending disposition of the writ petition. Petitioners respectfully request at least a temporary stay so that this**

motion and the petition can be fairly considered by the court. On June 8, 2014 my office notified counsel for each real party that petitioners were intending to file an emergency motion.

28 U.S.C. § 292

5. Petitioners are requesting that the Chief Judge of the United States Court of Appeals for the Ninth Circuit provide a certificate of necessity to the Chief Justice of the United States so that the Chief Justice may designate and assign temporarily a district judge of one circuit for service in another circuit. 28 U.S.C. § 292 (d). Alternatively, and as a second option, they request that in the public interest that the Chief Judge of the United States Court of Appeals for the Ninth Circuit designate and assign temporarily a district judge of the circuit to hold a district court in any district within the circuit. 28 U.S.C. § 292 (b).

6. There are various cases arising in this Circuit that involve challenges to an uncodified provision of a California statute, section 5 of California Senate Bill x2 11 ("section 5 of SBx2 11").

a. Section 5 of SBX211 mandates an involuntary waiver of rights under federal law, the United States Constitution, and California Constitution Article VI § 17 and VI§ 21. It violates the Supremacy Clause and is in direct conflict with § 1 of the Civil Rights Act of 1866.

b. Section 5 of SBX2 11 states:

> "***Notwithstanding any other law***, no governmental entity, or officer or employee of a governmental entity, shall incur any liability or be subject to prosecution or disciplinary action because of benefits provided to a judge under the official action of a governmental entity prior to the effective date of this act on the ground that those benefits were not authorized by law." (Emphasis added)

c. The Civil Rights Act of 1866 states:

> "That all persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are hereby to be citizens of the United States; and such citizens, of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, *shall have the same right, in every State* and Territory in the United States, *to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property, as is enjoyed by white citizens*, and shall be subject to like punishment, pains, and penalties, ***and to none other, any law, statute, ordinance, regulation, or custom, to the contrary notwithstanding***." (Emphasis added).

d. Under California Constitution Article VI § 17 acceptance of public employment or office results in constitutional resignation or vacancy of judicial office. The parties to the proceeding may proceed before person who is a member of the State Bar as a judge pro

tempore only with the consent of the parties under California Constitution Article VI § 21. (v5 Ex 35 BS 933-934).

e. Petitioner ASAP Copy and Print and Ali Tazhibi and others have filed have filed a case with class based allegations in the United States District Court for the Eastern District under the Voting Rights Act of 1965 as amended. In part they claim that constitutional vacancies of judicial office have occurred and that disclosure and consent of court users is required. (42 U.S.C. § 1973). ("VRA case")(See v1 Ex 57-58 BS 2039-2157).[1] They contend that it was known at the time of trial court unification and corresponding funding act that it was known the result would be a significant dilution in minority voting power.

f. On October 10, 2008 the Fourth Appellate District of the California Court of Appeal held that the compensation of judges of the Superior Court as employees of the County of Los Angeles was unconstitutional. Sturgeon v. County of Los Angeles (2008) 167 Cal.App.4th 630. ("Sturgeon I"). As a matter of law this case determined that the judges of the courts of record in the County of Los Angeles were engaged in public employment with the County. Id. at 635-636, 652, 657. Said judges received favorable federal tax treatment for such public employment. Id. In addition to the public

[1] Citation method: Appendix Volume Nos., Exhibit Nos., Bates Stamp Nos.

employment, which exists as a matter of law, California statutory authority which existed at the commencement of the case mandated that the term "officer of the county" included the superior court. Cal. Govt. Code § 29320. The county pays for the official public bond for judges of the courts of record as county officials. Cal. Govt. Code §§ 1505, 1651. Therefore, under California Constitution Article VI § 17 there has been acceptance of public employment and office.

g. As alleged in the October 4, 2013 complaint at issue in this case, petitioners claim they have been the target of severe retaliation and discrimination based in their viewpoint and valid legal position that section 5 of SBX2 11 is unconstitutional. There is also retaliation because petitioners claim that the existing unconstitutional condition in the state court must be disclosed users of the public courts that benefit from substantial federal financial assistance, and that after mandatory disclosure, court users in existing proceedings must be allowed an opportunity to provide or withhold their consent under California Constitution Article VI § 21. See Rooney v. Vermont Investment Corporation, 10 Cal.3d 351 (Cal. 1973), People v. Tijerina, 1 Cal.3d 41 (Cal. 1969).

h. The California Commission on Judicial Performance has twice provided opinions that section 5 of SBX2 11 is unconstitutional. (v5 Ex35 BS 940-960).

i. In voting to amend the state constitution California voters were expressly informed that the revised constitution prohibited judges of the courts of record from accepting public employment or office outside their judicial position during their term of office. (See v5 Ex 35 BS 1042-1048). See Alex v. County of Los Angeles (1973) 35 Cal.App.3d 994, Abbott v. McNutt (1933) 218 Cal. 225), Cal. Attorney General Opn 83-607, 66 Cal.Attorney General 440.

7. Because a significant number of judges have direct pecuniary and general interests in the claims asserted by petitioners, as discussed in the petition, there have been a high number of recusals. In the interest of justice and public confidence in the decision making process, the request for designation and assignment of a district court judge under 28 U.S.C. § 292 is appropriate.[2]

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[2] On the civil rights removal involving the ASAP case, now pending in this court (Appeal No. 13-55307), the general and pecuniary interests came into focus. It was discovered that the District Court judge had not disclosed during the entire proceedings in the district court that she was seeking judicial appointment in the California Court of Appeal for the Second Appellate District by defendant Governor Jerry Brown. In the pending VRA case requesting a special judicial election and implementation of disclosure and consent procedures, the judge would have had to run in a contested election after a public declaration of the existence of judicial vacancy of office. However, if appointed before such declaration the judge would avoid the class action demand of a contested election in the municipal districts and only be subject to a retention election.

8. In addition to the recusals in the instant case, when another challenge was filed in the state court on April 1, 2014, *Sturgeon v. County of Los Angeles et al.* ("Sturgeon III")[3] all judges of the court recused themselves and the case was stayed. The case was referred to the Chief Justice of the California Supreme Court (acting as chairperson of the California Judicial Council) to designate and assign a judicial officer.[4] Sturgeon III also raises challenges to section 5 of SBX2 11. (v5 Ex 37 BS 1051-1072). Unlike the instant case and the case of *Law Offices of Nina Ringgold and All Current Clients Thereof v. Jerry Brown et al.* , (USDC (Eastern District) Case No. 12-cv-00717), Sturgeon III does not involve persons or entities are currently involved in state court proceedings and being subjected to targeted retaliation for claiming that section 5 of SBX2 11 is unconstitutional.

Therefore, the judge had direct interests in the subject matter of the cases.

[3] Los Angeles Superior Court for the County of Los Angeles Case No. BC541213.

[4] When ASAP filed its first appeal in the state court the majority of the appellate panel voluntarily recused themselves after *Law Offices of Nina Ringgold and All Current Clients Thereof v. Jerry Brown et al.* was filed on March 21, 2012 and Justice Candice Cooper was unsuccessful in her petition review in the California Supreme Court concerning California Constitution Art. VI § 17 on March 28, 2012. (v5 Ex 35 BS 995).

9. The case, *Gilbert v. Controller of the State of California,* which is now pending in the California Court of Appeal Fourth Appellate District (Appeal No. G049148) indirectly competes with this case and the VRA case. Unhappy with the result of the lawsuit by Justice Candace Cooper (retired), active appellate justice of the Second Appellate District of the California Court of Appeal, Arthur Gilbert, now claims he might retire and wishes to accept public employment prior to the expiration of his term. Like Justice Cooper, Justice Gilbert was also unsuccessful in his quest to modify the longstanding interpretation of the California Constitution Art. VI § 17 which was supported by an overwhelming majority of California voters. (See v5 Ex 36 BS 1000-1026). Appearing to go beyond the issues actually raised by Justice Gilbert's appeal, and seem to address the claims of petitioners and the VRA case in the federal court, on May 7, 2014 the state appellate court served a supplemental briefing order on the following issues:

> "1. Does a person who has retired or resigned from a judicial office still qualify as a 'judge of a court of record,' as that term is used in Article VI, section 17 of the California Constitution?
>
> 2. If a person who has retired or resigned from a judicial office still qualifies as a judge of a court of record for purposes of Article VI, section 17, does that section prohibit such a person from practicing law?

> 3. Could interpreting the phrase 'judges of courts of record' to include a person who has resigned or retired from judicial office be consistent with the usage of that phrase in other sections of Article VI (e.g., section 19, which requires the Legislature to 'prescribe compensation for judges of courts of record')?"

(v13 Ex 64 BS 2558-2559).

10. Upon assignment under 28 U.S.C. § 292 petitioners request that the assigned judge hear the case and related cases, determine the pending motions, the motion to disqualify Judge Real, and motion for injunction.

11. Pending disposition of this petition and any designation and assignment, petitioners request that there be a stay and injunction of the state proceedings and proceedings in the district court as to ASAP's case and the cases related to the VRA case.

TRANSFER AND ASSIGNMENT ORDER

12. On May 6, 2014 the United States District Court for the Northern District Court expressly ordered that petitioners could file opposition to the motion to change venue which had been filed. (v1 Ex 9 BS 17-19). However, the next day the court granted the motion and transferred the case to the United States District Court for the Central District. (v1 Ex 6 BS 11-12, Ex 8 BS 15-16).

13. After multiple recusals of judges in the Central District addressed in the petition, Judge Manuel Real executed a transfer

order when, no notice of related cases had been filed in the Central District, District Court Judge Ronald S. W. Lew had not recused himself, and there was not a jointly executed voluntary transfer order. (v1 Ex 1 BS 1-2).

THE NEED FOR A STAY AND INJUNCTION PENDING REVIEW

14. Petitioners request a stay and injunction of the following proceedings pending disposition of this petition and determination of the pending motions assigned under 28 U.S.C. § 292.

a. The underlying case in the Central District. *ASAP Copy and Print et al. v. Jerry Brown et al.* 14-CV-03688- R-PLA.

b. The proceedings in the state appellate court.

(i) *ASAP Copy & Print et al v. Canon Business Solutions et al*. (Cal. Sup. Ct. S217815, Cal. Court of Appeal 2nd Dist. B238144).[5]

(ii). *ASAP Copy & Print et al v. Canon Business Solutions et al.* (Cal. Court of Appeal 2nd Dist. B249588).[6] This case is set for oral argument on June 19, 2014.

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[5] The order at issue on appeal involves the trial court's determination that it lacked jurisdiction as to petitioners' motion to unseal and to vacate. Defendant Justice Roger Boren has refused to recuse himself although he has a direct and general interest in the issues.

[6] The order on appeal in part concerns the award of attorney fees when (1) petitioners are still barred use of the sealed documents, (2) there has been no adjudication of the existence of a contract with an

c. The proceedings in the state trial court. *ASAP Copy & Print et al. v. Canon Business Solutions et al.* (Los Angeles Superior Court for the County of Los Angeles No. PC043358). The next hearing date is July 8, 2014.

15. The need for stay and injunction is expressly authorized by federal statutory authority in the causes of action specified in the complaint. (i.e. 42 U.S.C. § 12313, 12132, 42 U.S.C. § 1981-83, 1985-86, 42 U.S.C. § 2000a, 2000a-1, 2000a-2, 2000d, 18 U.S.C. § 245). Therefore, there is federal jurisdiction and authority to grant a stay and injunction during pendency of disposition of the writ petition and the case. Given the issues of first impression and the substantial irreparable harm to the petitioners there is good cause to grant the relief requested.

16. Petitioners do not consent to the proceedings in the state court. They have never received disclosure of the acceptance of public employment and office of the individual presiding in the state

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attorney fee provision, and (3) there is no judgment which exists which includes an award of attorney fees. See Gutting v. Globe Indemnity Co. 119 Cal.App. 288, 289. (Cal. 1931) ("…[T]here can be no judgment for costs, except as part of the judgment upon the issues in the action; that they are but incident to the judgment, and if the court loses power to render a judgment between the parties on the issues before it, it is equally powerless to render a judgment for costs incurred therein"). Defendant Justice Roger Boren has refused to recuse himself although he has a direct and general interest in the issues.

court proceeding. There does not exist consent as mandated by California Constitution Article § 21. Without the requested stay and injunction pending appeal petitioners are subjected to substantial constitutional injury, retaliation, and "blacklisting" for raising valid legal claims and due to their effort to seek a special judicial election under the Voting Rights Act of 1965 as amended. The injunctive relief pending review of the writ petition is warranted because in addition to constitutional injury petitioners have already suffered substantial economic loss which is continuing and section 5 of SBX2 11 on its face bars relief under the United States Constitution and federal law and it provides immunity from civil liability or prosecution or disciplinary action. Delay allows continuing and repeated injury, the continuation of exacting penalties, thereby impairing a fair and meaningful method for review by this court.

17. Petitioners are severely prejudiced in the state court proceedings because essential and basic services are unavailable. (i.e. court reporters and ADA services). Currently in civil proceedings there are no court reporter services and the state court is operating under a "Bring your own court reporter policy" which causes substantial financial disparity in court proceedings.

18. In retaliation for asserting claims that section 5 of SBX2 11 was unconstitutional and claims under the Voting Rights Act:

a. Petitioners were barred used of dispositive evidence in contested proceedings by use of an automatic sealing order when no motion to seal had ever been filed.

b. In pending proceedings a pre-filing order was used to prevent specific motions (defensive) from being filed in contested proceedings and imposed against ASAP when it has never been determined to be a vexatious litigant in any court or case in the United States.

c. During a life threatening medical emergency counsel for ASAP was barred use of the ADA procedures and accommodation for disability and both petitioners were barred access to the court.

d. On review of the ADA procedures a pre-filing injunction was imposed under CCP § 391.7 and court records were removed from the court to prevent review in the California Supreme Court.

e. For over two years the court refused to rule upon applications for fee waiver or to waive bond pending appeal based on indigency.

f. Although the sealed documents demonstrate there does not exist a finance lease with an attorney fees provision, and no adjudication on the merits of any contract has taken place, the

corporate defendants were allowed to proceed with motions in such a magnitude that it will put ASAP out of business.

g. Motions for attorney fees were filed against ASAP's counsel as if she was a party to a non-existent finance lease (with an attorney fee provision). Counsel is not involved in any contract among the parties to the litigation.

h. While sealing documents dispositive to the case of ASAP confidential financial information, tax returns, medical records, credit reports, and the like, which pertain to petitioners have been filed in the public record. This is despite the fact the documents are confidential by law.

i. Justice Boren who is a defendant in the instant case in a non-judicial and administrative capacity (including with respect to ADA claims) is participating in the appellate proceedings and has refused to recuse himself although he has a direct financial interest in the proceedings.

19. The following is the name, address, telephone number and e-mail address of all counsel in this case:

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Casados, Linda McCullough, N. Benavidez, Joseph Lane, Becky Fischer, S. Bland, O. Chaparyan

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on June 6, 2014.

s/ Nina Ringgold

CERTIFICATE OF SERVICE

I hereby certify that on June 9, 2014 I electronically filed the following documents with the Clerk of Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system:

AFFIDAVIT IN SUPPORT OF PETITION FOR MANDAMUS AND/OR PROHIBITION OR OTHER APPROPRIATE RELIEF; PETITION FOR DESIGNATION AND ASSIGNMENT OF DISTRICT COURT JUDGE UNDER 28 U.S.C. § 292 (b) AND FOR CERITIFICATE OF NECESSITY UNDER 28 U.S.C. § 292 (d) TO THE CHIEF JUSTICE OF THE UNITED STATES AND IN SUPPORT OF MOTION FOR IMMEDIATE STAY AND INJUNCTION PENDING DETERMINATION THEREOF
(Time Sensitive Date of June 16, 2014)

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

The following person is not a registered CM/ECF user:

NONE

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and this declaration was executed on June 9, 2014 at Los Angeles, California.

s/ Matthew Melaragno

APPENDIX 23

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

In re: ASAP COPY AND PRINT; et al.	No. 14-71589
ASAP COPY AND PRINT; et al., Petitioners, v. UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA, LOS ANGELES, Respondent, JERRY BROWN, in his Individual and Official Capacity as Governor of the State of California and in his Individual and Official Capacity as Former Attorney General of the State of California; et al., Real Parties in Interest.	D.C. No. 2:14-cv-03688-R-PLA Central District of California, Los Angeles ORDER

Before: GOULD, MURGUIA, and WATFORD, Circuit Judges.

Petitioners have not demonstrated that this case warrants the intervention of this court by means of the extraordinary remedy of mandamus. *See Bauman v. U.S. Dist. Court*, 557 F.2d 650 (9th Cir. 1977). Accordingly, the petition is denied.

KK/MOATT

The petition for designation and assignment of a district court judge under 28 U.S.C. § 292(b), and petition for certificate of necessity under 28 U.S.C. § 292(d) to the Chief Justice of the United States are denied.

The emergency motion for immediate stay and injunction is denied as moot.

No further filings will be entertained in this closed case.

DENIED.

APPENDIX 24

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

In re Hartford Litigation Cases

MARIAN TURNER, LISA TURNER, **De facto Defendants/plaintiffs,** **v.** **HARTFORD CASUALTY INSURANCE COMPANY, HARTFORD CASUALTY INSURANCE COMPANY; THE RULE COMPANY, INCORPORATED; CRAIG PONCI; NADJA SILLETTO, NORMA PIERSON; TONY GAITAN, ELAINE ALBRECHT; THORNHILL & ASSOCIATES, INC.; AND DOES 1-10,** **De facto Plaintiffs/defendants**	**Case No. 13-CV-08361-PA-E** **10-cv-05435** **11-cv-0653** **EXHIBIT ATTACHED TO DECLARATION OF AMY P. LEE, ESQ. AND NINA R. RINGGOLD, ESQ. IN OPPOSITION TO MOTION FOR ORDER FINDING NINA RINGGOLD AND AMY LEE IN CIVIL CONTEMPT OF COURT FOR FAILURE TO COMPLY WITH THE COURT'S JANUARY 17, 2014 ORDER** **Date: August 11, 2014** **Time: 2:30 p.m.** **Place: Courtroom 15** **(Caption Cont.)**

CORNELIUS TURNER, **De facto Defendant/Plaintiff,** **HARTFORD CASUALTY INSURANCE COMPANY; THE RULE COMPANY, INCORPORATED; CRAIG PONCI; NADJA SILLETTO, NORMA PIERSON; TONY GAITAN, ELAINE ALBRECHT; THORNHILL & ASSOCIATES, INC.; AND DOES 1-10,** **De facto Plaintiffs/Defendants.**
HARTFORD CASUALTY INSURANCE COMPANY, **Counter-Claimant,** **v.** **MARIAN TURNER, LISA TURNER, CORNELIUS TURNER,** **Counter-Defendants.**
MARIAN TURNER, LISA TURNER, **Counter-Claimants,** **CORNELIUS TURNER** **Counter-Claimant,** **v.** **HARTFORD CASUALTY INSURANCE COMPANY; THE RULE COMPANY, INCORPORATED; CRAIG PONCI; NADJA SILLETTO, NORMA PIERSON; TONY GAITAN, ELAINE ALBRECHT; THORNHILL & ASSOCIATES, INC.; AND DOES 1-10,** **Counter-Defendants.**

The undersigned hereby authenticate the attached Exhibit, an order dated September 27, 2011. This is the Exhibit referenced by Amy P. Lee, Esq. and Nina R. Ringgold, Esq. in their declarations in opposition to the motion for civil contempt.

This declaration is submitted under penalty of perjury and was executed in Los Angeles, California on July 29, 2014.

s/ Amy P. Lee, Esq.
Attorney for Marian Turner and Lisa Turner

s/ Nina R. Ringgold, Esq.
Attorney for Cornelius Turner

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Cornelius Turner

Plaintiff(s),

v.

Hartford Casualty Insurance Company et al

Defendant(s).

CASE NUMBER:

CV 11-07653 ODW (PLAx)

ORDER RE TRANSFER PURSUANT TO GENERAL ORDER 08-05 (Related Cases)

CONSENT

I hereby consent to the transfer of the above-entitled case to my calendar, pursuant to General Order 08-05.

9/27/11
Date

Valerie Baker Fairbank
United States District Judge

DECLINATION

I hereby decline to transfer the above-entitled case to my calendar for the reasons set forth:

Date *United States District Judge*

REASON FOR TRANSFER AS INDICATED BY COUNSEL

Case CV 10-05435 VBF(Ex) and the present case:

- ☐ A. Arise from the same or closely related transactions, happenings or events; or
- ☑ B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
- ☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.
- ☐ E. Involve one or more defendants from the criminal case in common, and would entail substantial duplication of labor if heard by different judges (applicable only on civil forfeiture action).

NOTICE TO COUNSEL FROM CLERK

Pursuant to the above transfer, any discovery matters that are or may be referred to a Magistrate Judge are hereby transferred from Magistrate Judge Abrams to Magistrate Judge Eick.

On all documents subsequently filed in this case, please substitute the initials VBF (Ex) after the case number in place of the initials of the prior judge, so that the case number will read CV 11-07653 VBF (Ex). This is very important because documents are routed to the assigned judges by means of these initials. The case file, under seal documents, exhibits, docket, transcripts or depositions may be viewed at the ☑ Western ☐ Southern ☐ Eastern Division.

Traditionally filed subsequent documents must be filed at the ☑ Western ☐ Southern ☐ Eastern Division. Failure to file at the proper location will result in your documents being returned to you.

cc: ☐ Previous Judge ☐ Statistics Clerk

CERTIFICATE OF SERVICE

I hereby certify that on July 29, 2014, I electronically filed the following documents with the Clerk of Court for the United States District Court for the Central District CM/ECF system:

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and this declaration was executed on July 29, 2014 at Los Angeles, California.

s/ Matthew Melaragno

s/ I attest that all signatories listed on whose behalf the filing is submitted concur in the filing's content and have authorized the filing. s/ Nina Ringgold

APPENDIX 25

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

In re: NATHALEE EVANS and DORIAN CARTER.	No. 14-71956 D.C. No. 2:14-cv-00285-R-PLA Central District of California, Los Angeles
NATHALEE EVANS and DORIAN CARTER, Petitioners, v. UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA, LOS ANGELES, Respondent, JERRY BROWN, in his individual and Official Capacity as Governor of the State of California and in his individual and Official Capacity as Former Attorney General of the State of California; et al., Real Parties in Interest.	ORDER

Before: THOMAS, BYBEE, and N.R. SMITH, Circuit Judges.

Petitioners have not demonstrated that this case warrants the intervention of this court by means of the extraordinary remedy of mandamus. *See Bauman v. U.S. Dist. Court*, 557 F.2d 650 (9th Cir. 1977). Accordingly, the petition is denied.

hmb/MOATT

This court lacks jurisdiction to issue a writ of mandamus to a state court. *See Demos v. U.S. Dist. Court*, 925 F.2d 1160, 1161 (9th Cir. 1991). Accordingly, to the extent the petition seeks this court to stay or otherwise issue orders to state courts, it is dismissed for lack of jurisdiction.

No further filings will be entertained in this closed case.

DENIED in part and DISMISSED in part.

APPENDIX 26

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

In re: CORNELIUS TURNER; et al.	No. 14-73318
CORNELIUS TURNER; AMY P. LEE, Law Offices of Amy P. Lee; NINA R. RINGGOLD, Law Offices of Nina Ringgold; et al., Petitioners, v. UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA, LOS ANGELES, Respondent, HARTFORD CASUALTY INSURANCE COMPANY; et al., Real Parties in Interest.	D.C. No. 2:13-cv-08361-PA-E Central District of California, Los Angeles ORDER

Before: O'SCANNLAIN, BERZON, and BYBEE, Circuit Judges.

Petitioners have not demonstrated that this case warrants the intervention of this court by means of the extraordinary remedy of mandamus. *See Bauman v. U.S. Dist. Court*, 557 F.2d 650 (9th Cir. 1977). Accordingly, the petition is denied.

KML/MOATT

The court construes petitioners' October 29, 2014 emergency motion for stay and injunction pending appeal as also filed in appeal No. 14-56731. The Clerk shall separately file petitioners' October 29, 2014 emergency motion for stay and injunction pending appeal, and the oppositions and reply thereto, in appeal No. 14-56731.

All pending motions filed in this mandamus action are denied as moot. No further filings will be entertained in this closed case.

DENIED.