

October Term, 2018

IN THE SUPREME COURT OF THE UNITED STATES

NINA RINGGOLD; et al.,
Petitioners,

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.,
Respondents.

On Writ of Certiorari To The
United States Court of Appeals for the Ninth Circuit

APPLICATION FOR EXTENSION OF TIME IN WHICH TO FILE
PETITION FOR WRIT OF CERTIORARI

NINA RINGGOLD
Counsel of Record
17901 Malden St.
Northridge, CA 91325
Telephone: (818) 773-2409

PARTIES TO THE PROCEEDINGS

The petitioners and applicants include: (1) Nina Ringgold as named trustee of the Aubry Family Trust and named executor under the will of Robert Aubry; (2) the Law Offices of Nina Ringgold and All Current Clients Thereof; (3) Ali Tazhibi; (7) Justin Ringgold-Lockhart; (8) Nathalee Evans Barnett,; (9) Karim Shabazz (“Applicants”).

The respondents are (1) 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 (official capacity substitution Gavin Newsom); (3) Kamala Harris in her individual and official capacity (official capacity substitution Xavier Beccera); (3) Commission on Judicial Performance of the State of California; and (4) Elaine Howle in her individual and official capacity as California State Auditor.

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To the Honorable Elena Kagan, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Ninth Circuit:

Pursuant to Title 28, United States Code, Section 2101 (c) and Rules 13 (5), 22, and 30 (3) of the Rules of the Supreme Court of the United States, Applicants request an extension of thirty (30) days to file a petition for writ of certiorari to August 28, 2019. Absent an extension of time, the petition would be due on July 29, 2019. This application is filed at least ten days before the due date.

The court has jurisdiction under 28 U.S.C. § 1254 (1). The judgment sought to be reviewed is that of the United States Court of Appeals for the Ninth Circuit dated April 30, 2019. (See Decl. of Ringgold, Ex __).

An extension is needed because multiple parties and entities will be proceeding under Rule 12.4 with respect to identical or closely related questions that arise from a federal class action appeal involving the Voting Rights Act, as reauthorized by the Voting Rights Reauthorization and Amendments Act of 2006. This case seeks a special judicial election in the State of California during the 2020 General Election. Some of the same persons involved in the federal voting rights case have pending cases in the state court. In the state cases the members of the voting rights case contend that they are being retaliated against. In particular the case of the lead registered voter's petition exemplifies the substantial retaliation and voter intimidation encountered due to the effort to implement a special

judicial election. Both persons and entities with cases still in the state court are seeking relief in this court at or near the time as the federal case.

There exists identical or closely related questions in the petitions arising from the state and federal court. The extension allows for necessary and proper coordination. The extension would allow preparation of a single petition and related petition to be filed at or near the same time that involve related proceedings in the state and federal court.

GENERAL BACKGROUND

On October 10, 2008 California Government Code §53200.3 was repealed. The former statute specified that judges of the courts of record could engage in public employment with a county. The County of Los Angeles and County of Alameda have the largest number of judges that have accepted public employment with a county.¹ The repeal of California Government Code §53200.3 uncloaked the existence of mandatory constitutional resignations of the judges in various courts of record under California Constitution Art. VI §17. Due to constitutional resignations it was mandatory for disclosures to be made to court users and mandatory for the court user to have an opportunity to withhold consent to proceed before a judge subject to such resignation. Cal. Const. VI § 21, Alex v. County of Los Angeles, 35 Cal.App.3d 994 (Cal. 1973), Abbott v. McNutt, 218 Cal. 225 (Cal. 1973). See also California Supreme Court Committee on Judicial

¹ These same two counties are governed under the bail-in provision of Section 3 (c) of the Voting Rights

² See California Supreme Court Committee of Judicial Ethics Formal Opinion 2013-002

Ethics Formal Opinion 2017-011 *Judicial Service On A Nonprofit Charter School Board* (May 2, 2017) (“CJEO 2017-011”).

Subsequently the California Legislature enacted section 5 Senate Bill x211 (“section 5 of SBX 211”). This uncodified provision purports to provide retroactive immunity to government entities, officers, employees, and judges from personal liability, disciplinary action, or criminal prosecution notwithstanding the United States Constitution or federal law. Section 5 of SBX2 11 creates a hidden involuntary waiver of federal law and it attempts to revise or amend the state constitution without use of the proper procedures. See Legislature v. Eu, 54 Cal.3d 492, 506-512 (Cal. 1991), Amador Valley Joint Union High School v. State Bd. Of Equalization, (1978) 22 Cal.3d 208 (Cal. 1978).

California Constitution Article VI, Section 17 mandates that if a judge accepts public employment or office there is an automatic resignation of the judge. This is well-established law reaffirmed in the fairly recent CJEO 2017-011 formal ethics opinion of the California Supreme Court. California Constitution Article VI, Section 21 provides that only on stipulation of the parties litigant can the order a cause to be tried by a temporary judge who is a member of the State Bar, sworn and empowered to act until final determination of the cause. See Rooney v. Vermont Investment Corporation, 10 Cal.3d 351 (Cal. 1973), People v. Tijerina, 1 Cal.3d 41 (Cal. 1969).

After enactment of section 5 of SBX211 state courts began to suspend official court reporting services. Therefore the proceedings where the involuntary waivers of federal law were being imposed or there were grounds for judicial disqualification the state court failed to provide any official reporting services.² As discoveries were made of the existence of the involuntary waivers caused by Section 5 of SBX2 11 and grievances were lodged by court users, applicants filed a Voting Rights Case to implement a special judicial election and establish a formal grievance procedure. (Decl. Ex 4). The case also sought to compel the Commission on Judicial Performance to make public the legal opinions it had provided to both Jerry Brown and Kamala Harris (when they were acting in the capacity as attorney general). Despite the Commission's legal opinions that acceptance of public employment and office with a county by certain state judges was unconstitutional, no action was taken by either the Governor or the Attorney General.

The Voting Rights Case was filed on the same day that the Superior Court of the County of Los Angeles suspended its local rules and suspended court reporter availability. As a form of voter intimidation members of the class action Voting Rights Case with cases still pending in the state court were subjected to substantial retaliation.

² See California Supreme Court Committee of Judicial Ethics Formal Opinion 2013-002 (2013), *Disclosures on the Record When There is no Court Reporter or Electronic Recording of the Proceedings.*

The Voting Rights Case seeks a declaration with respect to existing constitutional judicial vacancies of office in the state court and federal determination of the procedures to be used for notification to court users of the existence of section 5 of SBX 211 and implementation of procedures for a supervised special judicial election. It also seeks to develop rational and reasonable procedures pending implementation of a special judicial election and a formal and transparent method for handling grievances in the courts of record without retaliation. It seeks to enjoin the proceedings in the state court as to members of the voting rights case so the issues can be fairly adjudicated without continued intimidation and retaliation.

In the federal court Voting Rights Case the plaintiffs requested the appointment of a three-judge court outside the state of California. Without authority the district court judge struck this request in complete conflict with the United States Supreme Court's decision in Shapiro v. McManus, 136 S.Ct. 450 (2015). The district court judge had failed to disclose that he had a specific financial and general interest in the case. He was a former judge in a state superior court where the judges had accepted public employment. Therefore the federal judge would be included in the fines and penalties sought under the California Political Reform Act cause of action in the Voting Rights Case.

LEGAL DISCUSSION

A. Petitioners Have Shown Good Cause To Extend The Time To File A Petition For A Writ Of Certiorari

There is good cause for the requested extension because the cases arising from either the federal or state court need to be filed in this court close in time and coordinated for effective review. Most clients are of low and modest means and cannot reach access to this court without presenting their case as a group.

B. There Is Substantial Merit To The Petition For A Writ Of Certiorari

The California Commission on Judicial Performance has provided two formal opinions indicating that the present public employment by judges of the courts of record by counties in the state is unconstitutional. (i.e. See Decl. Ex 4). Racial and language minorities have legitimately and thoughtfully sought to obtain a declaration of rights and to exercise their voting rights to implement a special judicial election so that California's judiciary could possibly reflect the rich diversity of the state and they have been subjected to severe voter intimidation.

In the voting rights case the applicants twice requested the appointment of a three judge court. Without authority the district court struck the 2016 request stating that a motion had to be filed. This was in complete conflict with this court's decision in Shapiro v. McManus *supra*

and the local rules of the district court. Under 28 U.S.C. § 2284 (a) a three judge court “shall be convened when required by Act of Congress”.

Pertinent to this case 28 U.S.C. § 2284 commands that “[u]pon filing a *request* for three judges”, a three-judge court is to be convene. There is not prerogative to disregard the Shapiro decision. See Bosse v. Oklahoma, 137 S.Ct. 1 (2016).

In Shapiro the district court dismissed the case for failure to state a claim for relief. This court held that the judge was required to refer the case to a three-judge court and that under 28 U.S.C. §2284 there was no exception and that the mandatory term *shall* “normally creates an obligation impervious to judicial discretion.” Id. at 454. This court held that whereas the old version of §2284 triggered the duty to convene a three-judge court on filing an application (i.e. motion) to enjoin an unconstitutional state statute, but the current statute triggered the district judge’s duty “[u]pon the filing of a *request* for three judges.” Id. (Emphasis in original). This court held that the district court was to examine the complaint to see “whether the ‘request for three judges’ is made in a case covered by §2284 (a) - no more, no less”. Id. at 455. This is because a single judge cannot enter a judgment on the merits. Id. Given that Section 5 of SBX2 11 remains hidden (uncodified) and members of the Voting Rights Act are being subjected retaliation this prevents necessary institutional reform and implementation of the goals of the Voting Rights Act.

This application allows for petitions to be submitted to this court so that closely related and/or identical questions may be considered together.

CONCLUSION

For the foregoing reasons, it is respectfully requested that this court grant this application for extension of time.

Dated: June 27, 2019

Respectfully Submitted,

By: s/ Nina R. Ringgold
NINA R. RINGGOLD, Esq.
Attorney For Petitioners

DECLARATION OF NINA RINGGOLD

I, Nina Ringgold, declare:

1. The facts alleged herein are within my personal knowledge and I know these facts to be true. If called as a witness I could and would testify competently to the matters stated herein.

2. I have been diligently preparing the petition for writ of certiorari arising from a April 30, 2019 judgment of the United States Court of Appeals. (case no. USCA9th Cir. 17-16269). The time to file the petition is July 29, 2019.

3. I am requesting an extension of thirty days through the date of August 28, 2019. This extension is necessary because multiple parties and entities will be proceeding under Rule 12.4 and filing related petitions for writ of certiorari at the same time or near the same time. The intent is to allow this court to review the issues arising in both the state and federal court that have substantial institutional impact in the reasonable and fair administration of justice and implementation of the goals of the Voting Right

4. The petition for a writ of certiorari from the voting rights case is presently due on July 29, 2019. This case is entitled:

THE LAW OFFICES OF NINA RINGGOLD AND ALL CURRENT CLIENTS THEREOF on their own behalves and all similarly situated persons v. JERRY BROWN in his

Individual and Official Capacity³ 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 Capacity⁴ 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 (USCA 9th Cir. Case No. 17-16269)

5. All members of the federal Voting Rights Case claim that they have been subjected to serious and dramatic retaliation and voting intimidation due to their effort to exercise protected federal statutory and constitutional rights.

6. Attached hereto are true and correct copies of the following items:

a. **Exhibit 1** is the April 30, 2019 Amended Memorandum of the United States Court of Appeals for the Ninth Circuit. (USCA 9th Cir. 17-16269)

b. **Exhibit 2** is the April 30, 2019 order denying the petition for panel rehearing and rehearing en banc. USCA 9th Cir. 17-16269

c. **Exhibit 3** is the November 13, 2018 petition for panel rehearing and rehearing en banc. USCA 9th Cir. 17-16269

³ Gavin Newsom the current Governor of the State of California is automatically substituted in official capacity under FRAP 43 (c)(2).

⁴ Xavier Becerra the current Attorney General of the State of California is automatically substituted in official capacity under FRAP 43 (c)(2).

d. **Exhibit 4** is the February 13, 2013 Second Amended Class Action Voting Rights Complaint. (USDC 2:12-cv-00717 JAM-JFM).

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed in Los Angeles, California on July 19, 2019.

s/ Nina R. Ringgold

EXHIBIT 1

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

APR 30 2019

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

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. 17-16269

D.C. No. 2:12-cv-00717-JAM-JFM

AMENDED MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
John A. Mendez, District Judge, Presiding

Submitted October 22, 2018**

Before: SILVERMAN, GRABER, and GOULD, Circuit Judges.

Nina Ringgold, Justin Ringgold-Lockhart, and the Law Office of Nina
Ringgold appeal from the district court's order denying various post-judgment

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

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

motions. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion. *Hamid v. Price Waterhouse*, 51 F.3d 1411, 1415-16 (9th Cir. 1995). We may affirm the district court on any basis supported by the record. *Moreno v. Baca*, 431 F.3d 633, 638 (9th Cir. 2005). We affirm in part and vacate in part.

The district court did not abuse its discretion in denying plaintiffs' motion for disqualification because plaintiffs failed to establish extrajudicial bias or prejudice. *See* 28 U.S.C. § 455 (listing circumstances requiring recusal); *Clemens v. U.S. Dist. Court*, 428 F.3d 1175, 1178 (9th Cir. 2005) (test for disqualification of judge under § 455(a)). Contrary to plaintiffs' contention, the district court did not err by resolving the motion without an evidentiary hearing. *See* Fed. R. Civ. P. 78(b). We reject as without merit plaintiffs' arguments that the district court erred by denying their request for "intercircuit assignment" under 28 U.S.C. § 292.

The district court did not err in denying plaintiffs' motions for a three-judge panel. *See* 28 U.S.C. § 2284(a). We reject as without merit plaintiffs' contention that the district court lacked jurisdiction because the action was subject to the jurisdiction of a three-judge court.

The district court did not abuse its discretion in denying plaintiffs' motion for reconsideration and motion to vacate the judgment because plaintiffs failed to

establish any basis for relief. *See Sch. Dist. No. 1J, Multnomah Cty., Or. v. ACandS, Inc.*, 5 F.3d 1255, 1262-63 (9th Cir. 1993) (setting forth standard of review and grounds for reconsideration under Fed. R. Civ. P. 59(e) and 60). We reject as without merit plaintiffs' contentions regarding the applicability of Fed. R. Civ. P. 52 and 54(b).

The district court did not abuse its discretion in taking judicial notice of the Central District of California's pre-filing order against Nina Ringgold and Justin Ringgold-Lockhart because courts may take judicial notice of documents in the public record. *See Lee v. City of Los Angeles*, 250 F.3d 668, 689 (9th Cir. 2001) (setting forth standard of review).

The district court did not abuse its discretion in sanctioning Nina Ringgold and Justin Ringgold-Lockhart under Fed. R. Civ. P. 11 because the record supports the conclusion that Ringgold and Ringgold-Lockhart filed their First Amended Complaint for the improper purpose of circumventing the pre-filing order. *See Fed. R. Civ. P. 11; Townsend v. Holman Consulting Corp.*, 929 F.2d 1358, 1361-62, 65 (9th Cir. 1990) (en banc) ("A district court confronted with solid evidence of a pleading's frivolousness may in circumstances that warrant it infer that it was filed for an improper purpose.").

The district court did not abuse its discretion in denying plaintiffs' cross-motion for sanctions because plaintiffs failed to establish grounds for sanctions. *See Fed. R. Civ. P. 11(b); Christian v. Mattel, Inc.*, 286 F.3d 1118, 1126-27 (9th Cir. 2002) (describing grounds for Rule 11 sanctions).

The district court, however, abused its discretion in imposing a \$1,000 monetary sanction on Nina Ringgold because the record does not support the district court's conclusion that Ringgold violated a court order in a manner tantamount to bad faith. *See Fink v. Gomez*, 239 F.3d 989, 991-94 (9th Cir. 2001) ("[T]he district court has the inherent authority to impose sanctions for bad faith, which includes a broad range of willful improper conduct."). We vacate the \$1,000 sanction against Nina Ringgold.

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

All pending motions and requests are denied.

Appellants shall bear the costs on appeal.

AFFIRMED in part and VACATED in part.

EXHIBIT 2

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

APR 30 2019

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

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. 17-16269

D.C. No. 2:12-cv-00717-JAM-JFM
Eastern District of California,
Sacramento

ORDER

Before: SILVERMAN, GRABER, and GOULD, Circuit Judges.

The memorandum disposition filed October 29, 2018, is hereby amended.

An amended disposition is filed concurrently with this order.

With these amendments, the panel has voted to deny the petition for panel
rehearing.

The full court has been advised of the petition for rehearing en banc and no
judge has requested a vote on whether to rehear the matter en banc. *See* Fed. R.
App. P. 35.

Appellants' petition for panel rehearing and petition for rehearing en banc
(Docket Entry No. 77) are denied.

Appellants' request for judicial notice (Docket Entry No. 78) is denied.

No further filings will be entertained in this closed case.

EXHIBIT 3

9th Cir. Civ. Case No. 17-16269
USDC Case No. CV12-00717-JAM-JFM

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

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,

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; 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.

Appellees.

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

PETITION FOR PANEL REHEARING
AND REHEARING EN BANC

NINA RINGGOLD, Esq. (SBN #133735)
Attorney for Appellants
Law Offices of Nina R. Ringgold
17901 Malden St., Northridge, CA 91325
Telephone: (818) 773-2409, Fax: (866) 340-4312
nrringgold@aol.com

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I. INTRODUCTION

Petitioners, all current clients of the Law Offices of Nina Ringgold and racial and/or language minorities who have historically had limited access to the courts of the State of California, seek panel rehearing and rehearing en banc of the October 29, 2018 Memorandum attached hereto. (Silverman, Bybee, and Christen).

II. BACKGROUND

The framers of the California Constitution intended “that the people should reserve to themselves the right to elect such judges and their successors at regular intervals and that any other mode of filling said offices should be by use of an emergency method to fill vacancies until a general election should be held.” Bearden v. Collins, 220 Cal. 759, 762 (Cal. 1934), Lungren v. Davis, 234 Cal.App.3d 806, 814 (Cal. 1991). In the 1990’s local municipal district judicial elections began to change the ethnic make-up of the judiciary in the state. However, trial court unification in 1997 changed judicial elections from municipal district based voting to countywide voting. This change was intended and did severely diminish voting rights of racial

and language minority voters and completely undermined the goal of diversity in the judiciary.

This voting rights case seeks a special judicial election in the local municipal districts that existed prior to trial court unification throughout the State of California starting with the County of Los Angeles. It was filed in an effort to implement such election in time for the November 8, 2016 General Election. The complaint alleges that “[i]n 2011 approximately 73.6% of the state judicial was White, 5.2% African American, and 7.5% Latino, as compared to 40%, 6.2%, and 37.6% of the respective groups in the population in the State of California in the same year”. (See Excerpts of Record “ER” 5.962-3¶29). The sample ballot for the November 8, 2016 General Election concealed the names of alleged judicial incumbents, failed to disclose constitutional vacancies of office, and there was a lack of disclosure of regular judicial vacancies. The true nature of the claim of judicial incumbency and the actual number of judicial seats available for contested judicial election were concealed. There has been continuous vote dilution and omitted information in the electoral process including on the ballot itself. (ER4.661-

613, 708-712). This same condition continued into the recent Mid-Term election. (See RJD #3, excerpt of sample ballot as to November 6, 2018 judicial election).

Petitioners contend that constitutional vacancies of judicial office mandated by the state constitution have occurred. This is because judges of certain counties have accepted public employment and office with a county within the state. California Constitution Art. VI § 17 mandates automatic constitutional vacancy of judicial office. See Cal. Const. Art VI §17, Alex v. County of Los Angeles, 35 Cal.App.3d 994 (Cal. 1973), Abbott v. McNutt, 218 Cal. 225 (Cal. 1933). 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 (“Section 5 of SBX2 11”)(See Addendum to AOB p. 13). Under Section 5 of SBX2 11 litigants in pending proceedings, are required to involuntarily and without notice, waive rights guaranteed under the United States Constitution

and federal law.¹

The California Commission on Judicial Performance has twice provided opinions that Section 5 of SBX2 11 is unconstitutional. On May 2, 2017 the California Supreme Court Committee on Judicial Ethics Opinions issued a formal opinion that directly supports the petitioners' arguments regarding when a constitutional resignation or vacancy of judicial office arises. (CJEO Opn 2017-011, ER8.90-105).

This case was filed on March 21, 2012 prior to the decision of Shelby County v. Holder, 570 U.S. 529 (2013). The first request for transfer to a three-judge court was filed in 2013 and ignored by the district court prior to the Shelby decision. Shelby held that *only* the coverage formula in Section 4(b) of the Voting Rights Act, as reauthorized by the Voting Rights Reauthorization and Amendments Act of 2006², is unconstitutional and “can no longer be

¹ It also forces an involuntary waiver of rights under the California Constitution Art. VI § 21. See Rooney v. Vermont Investment Corporation, 10 Cal.3d 351 (Cal. 1973), People v. Tijerina, 1 Cal.3d 41 (Cal. 1969).

² The full name of the statute is the Coretta Scott King, Cesar E. Chavez, Barbara C. Jordan, William C. Velasquez, and Dr. Hector P. Garcia Voting

² The full name of the statute is the Coretta Scott King, Cesar E. Chavez, Barbara C. Jordan, William C. Velasquez, and Dr. Hector P. Garcia Voting

used as a basis for subjecting jurisdictions to preclearance" under Section 5 of the Act. Id. at 2631. The Supreme Court determined that the *formula* no longer made sense in light of current conditions. However, it amplified and stressed that it was issuing "no holding on §5 itself, only on the coverage formula". Id. at 557. (Section 4(b), 52 U.S.C. §10303 (b)). The decision focused on comparisons and data involving Whites and African Americans and not covered jurisdictions with large Hispanics populations. Id. at 548. The decision did not address other sections of Section 5 of the Voting Rights Act such as 52 U.S.C. §10304 (b) or other provisions such as 52 U.S.C. §10303 (f) and 52 U.S.C. §10302 (c). The trigger for Section 3(c) relief is far different than the coverage formula in Section 4(b). 52 U.S.C. §10302 (c) referred to as the pocket trigger or bail-in provision is geographically focused and based on more recent findings of constitutional violations.³

Rights Act Reauthorization and Amendments Act of 2006 (Public Law 110-258, July 1, 2018).

³ In California there were four counties covered by section 5 of the Voting Rights Act: Kings County (11/1/72, 40 FR 43746), Merced County (11/1/72, 40 FR 43746), Monterey County (11/1/68, 36 FR 5809), Yuba County (11/1/68, 36 FR 5809), Yuba County (11/1/72, 41 FR 784). There are two counties subject to the Section 3(c) bail-in provision: Los Angeles County, Alameda County.

The Voting Rights Reauthorization and Amendments Act of 2006

modified criteria for declaratory judgment as set forth in 52 U.S.C. § 10304 (b).

This modification is not connected to the coverage formula of Section 4(b) (52 U.S.C. §10303 (b)) determined to be unconstitutional in Shelby.

52 U.S.C. § 10304 (b) was added by the 2006 Amendments. It applies not only to cases that were governed under the coverage formula but also to cases involving the following: “Any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting that has the purpose of or will have the effect of diminishing the ability of any citizens of the United States on account of race or color, or in contravention of the guarantees set forth in section 10303 (f)(2) of this title, to elect their preferred candidates of choice denies or abridges the right to vote within the meaning of subsection (a) of this section.” The findings of Congress support this interpretation. (Public Law 109-246 July 27, 2006 Sec. 2, Congressional Purpose and Findings).⁴

⁴ The Shelby decision is not retroactive and does not state that it is retroactive. Shelby did not involve a failure to comply with both Section 5 and Section 3(c). California is not a jurisdiction originally covered under Section 4 (b) of the Voting Rights Act such as the original jurisdictions in the

When petitioners renewed their request for a three-judge court in 2016 due to the refusal to rule on the 2013 request, without authority the district court struck the 2016 request stating that a motion had to be filed. This was in complete conflict with the United States Supreme Court's decision in Shapiro v. McManus, 136 S.Ct. 450 (2015) and Rule 203 of the Local Rules of the United States District Court for the Eastern District of California. The Memorandum improperly states that petitioners' 2013 and 2016 "motions" for a three judge-court were denied. (Memorandum p. 2). This is not correct. No motion was denied. And, no motion was required. Additionally, the Memorandum provides no factual or legal basis for the indication that the case is not subject to the jurisdiction of a three-judge court. In fact, the district court judge never made any determination that a three-judge court was not required. He solely presented an administrative barrier that was not required by law or decision of the Supreme Court. Additionally, the district court judge had failed to disclose that he had a specific financial and general

South (i.e. Alabama, Georgia, Louisiana, Mississippi, South Carolina, and Virginia.)

interest in the case particularly the fines and penalties under the California Political Reform Act. Therefore disqualification was mandatory.

III. PETITION FOR REHEARING EN BANC

A. The Petition Involves Questions Of Exceptional Importance And Demonstrates That The Memorandum Conflicts With Existing Opinions Of The Supreme Court

1. The Memorandum Conflicts With The Supreme Court's Decision In *Shapiro v. McManus*

Under 28 U.S.C. § 2284 (a) a three judge court "shall be convened when required by Act of Congress". Pertinent to this case 28 U.S.C. § 2284 commands that "[u]pon filing a *request* for three judges", a three-judge court is to be convened. 28 U.S.C. § 2284 does not require a motion. Rule 203 of the local rules of the Eastern District also do not require a motion and further provides that if the plaintiffs fail to file a notice that every other party shall file and serve a notice and all other parties are relieved of the obligation to provide notice.

Under Shapiro the district court judge was required to refer the case for transfer to a three-judge court after filing two requests in 2013 and 2016. (ER4.814-819, 5.979 ¶78). The panel does not mention Shapiro and improperly

indicates that a motion had been denied. There is not prerogative to disregard the Shapiro decision. See Bosse v. Oklahoma, 137 S.Ct. 1 (2016).

In Shapiro the district court dismissed the case for failure to state a claim for relief. The Supreme Court held that the judge was required to refer the case to a three-judge court and that under 28 U.S.C. §2284 there was no exception and that the mandatory term *shall* “normally creates an obligation impervious to judicial discretion.” Id. at 454. The Supreme Court further held that whereas the old version of §2284 triggered the duty to convene a three-judge court on filing an application (i.e. motion) to enjoin an unconstitutional state statute, but the current statute triggered the district judge’s duty “[u]pon the filing of a *request* for three judges.” Id. (Emphasis in original). The Supreme Court directed that the district court was to examine the complaint to see “whether the ‘request for three judges’ is made in a case covered by §2284 (a) - no more, no less”. Id. at 455. This is because a single judge cannot enter a judgment on the merits. Id. However, the judge in this case merely ignored or stuck the request and determined the merits. The Memorandum doesn’t render a de novo review on the initial motion to dismiss filed in the action and the subject of the January 23, 2013 judgment.

On review in this court there is no review of the merits. See Idlewild Bon Voyage Liquor Corp. v. Epstein, 370 U.S. 713 (1962) citing Stratton v. St. Louis S.W.R. Co., 282 U.S. 10 (1930). (the court of appeals is precluded from reviewing the merits on a case that should have originally be determined by a three-judge court). There is no doubt the case raise a substantial federal question.

The minority vote dilution in the State of California is of exceptional importance and this court should review en banc whether there existed authority under Shapiro to disregard the mandatory statutory procedures.

2. Disqualification Of The District Court Judge Was Required And A Referral Should Be Made For An Out-Of-State Three Judge Court

The Memorandum solely views disqualification under 28 U.S.C. § 455 (a) when petitioners sought disqualification under 28 U.S.C. § 455 (a), (b)(1), (b)(4), (b)(5)(iii), and The Fourteenth Amendment. Here, the judge was previously employed in a court identified by the California Judicial Council where judicial members were involved in the county compensation scheme that is alleged to create judicial vacancies of office. More importantly the assigned judge is part of the group identified in the complaint that would be the subject of fines and penalties under the California Political Reform Act.

(ER5.980-982¶86-94, 5.1018 ¶2e). Petitioners were not required to conduct discovery. The judge had a mandatory duty to disclose. See Am. Textile Mfrs. Inst., Inc. v. Limited, Inc., 190 F.3d 729, 742 (6th Cir. 1999). Just as in Liljeberg v. Health Services Acquisitions Corp., 486 U.S. 847, 865 (1988) a full disclosure and evidentiary hearing would have removed any basis for questioning impartiality. And, since the underlying case fundamentally involves a systemic failure of judicial disclosure of matters directly related to the Voting Rights Act and the California Constitution, the requested evidentiary hearing was reasonable and appropriate.

Under William Cramp and Sons Ship and Engine Building Co. v. International Curtis-Marine Turbine Co., 228 U.S. 645 (1913) a de novo standard should have applied and expeditiously the case should have been assigned to a disinterested out-of-state three-judge court. Based on extrajudicial sources and direct general and financial interests the judge had a temptation not to “hold the balance nice, clear, and true.” Aetna Life Ins. Co. Lavoie, 475 U.S. 813, 822 (1986).

Approximately one-half of the district court judges in the central district have recused themselves with respect to cases related to the requested

judicial election. This court should follow the procedure for intercircuit assignment under 28 U.S.C. § 292 (d) with the statutory judicial officers entering an order that may be reviewed by the Supreme Court.

3. The Method Adopted In The District Court Furthers Voter Intimidation And Violation Of First Amendment Rights

In Shapiro the Supreme Court left open the possibility that the First Amendment protects the right to vote. See Shapiro at 456, Vieth v. Jubelirer, 441 U.S. 267, 313-16 (Kennedy, J. concurring in judgment). Here, a pre-filing order which has absolutely nothing to do with the Voting Rights Act or the Fifteenth Amendment has been used to impair First Amendment associational interests and to burden the First Amendment right of political association to implement institutional reform and fair and open judicial elections. Judges impacted by the issues in the case, or whose colleagues are impacted, have imposed burdens and penalties against the petitioners. The burdens and prejudice is imposed because of the petitioners' efforts to gain fair participation in the electoral process consistent with the commands of the Voting Rights Act and the United States constitution. The challenged January 23, 2013 order and judgment (ER1.22-37) was entered *after* petitioners' filed petitions for writ of certiorari in the United States Supreme Court to give an

appearance that the underlying case had been resolved – when it had not. (See AOB p. 10-14, 33-34).

There has never been any finding of contempt of the December 6, 2011 pre-filing order of Judge Real that was vacated by this court, there was no motion filed before Judge Real in an entirely different district (and not assigned to this Voting Rights Case), and there was no motion filed by any defendant under the All Writs Act. (28 U.S.C. § 1651(a)). The district court dismissed the complaint as to a segment of the petitioners and effectively imposed an injunction on a different segment of petitioners (with no motion filed under FRCP 65) through an indication that there was a lack of subject matter jurisdiction. However, only Congress can confer or divest the district court of subject matter jurisdiction. (Art. III §2, 28 U.S.C. § 1330-1369, 28 U.S.C. §1441-1452, See AOB p. 49-60).

This court has recognized that each district court makes its own pre-filing orders in accord with its local rules. See Molski v. Evergreen Dynasty, 500 F.3d 1047, 1056 (9th Cir. 2007). While a court may judicially notice another federal court's order, it may not accept that court's findings as true. See Wyatt v. Terhune, 315 F.3d 1108, 114 (9th Cir. 2003), FRE 201 (b). Moreover,

fundamental there must be identification of the relevance, interpretation, and legal standard applied to the applicable filing. (i.e. on a motion to dismiss a court may not resolve disputed factual issues unless there is an evidentiary hearing). See Roberts v. Corrothers, 812 F.2d 1173, 1177 (9th Cir. 1987), Augustine v. United States, 704 F.2d 1074, 1077 (9th Cir. 1983). And, on review there is de novo review.

4. There Does Not Exist A Legal Or Factual Basis for January 23, 2013 Rule 11 Sanctions Order; And The Rationale To Deny The Cross-Motion For Sanctions Of Petitioners Does Conform To The Precedent Of This Court

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). The district court judge did not determine that the allegations of the complaint were frivolous and solely ruled that he believed he lacked subject matter jurisdiction. However, subject matter jurisdiction was not lacking and an attorney cannot be sanctioned for a complaint that is in fact well founded solely because the attorney's pre-filing inquiry is viewed as inadequate. See In re Keegan Management Co., Secur. Litig., 78 F.3d 431, 435 (9th Cir. 1996). There was no need to evade a pre-filing order because the order does not

have anything to do with the voting rights claims and claims specified in the voting rights case. Justin Ringgold-Lockhart has standing in the voting rights case because he had been a registered voter in both Alameda County and Los Angeles County. These are the only counties in the State of California subject to the bail-in provision of section 3 (c). Moreover, the clients of the law office had to file their claims, in the proper venue, following the denial of their claims under the Government Tort Claims Act. Also, judge cannot simultaneously order that it lacks subject matter jurisdiction and then disregard that order and order the filing of an amended complaint and issue sanctions.⁵ Moreover under the decisions of this circuit the court is required to consider the ability to pay. See Haynes v. City & County of San Francisco, 688 F.3d 984 (9th Cir. 2012). (AOB p. 66).

The memorandum indicates that there was not an abuse of discretion in the denial of petitioners' cross-motion for Rule 11 sanctions in the amount of \$35,000. (Memo p. 3-4, AOB p. 67-68). It cites to Radcliffe v. Rainbow Constr.

⁵ Willy v. Coastal Corp., 503 U.S. 131 (1992) involves the circumstance in which it was *later* determined there was a lack of subject matter jurisdiction. A court cannot simultaneously order there is a lack subject matter jurisdiction and maintain "hypothetical jurisdiction." See Steel Co. v. Citizens for a Better Environment, 523 U.S. 83 (1998).

Co., 254 F.3d 772, 788 (9th Cir. 2001) indicating that petitioners did not following the procedural requirements under Rule 11. The district court determined that petitioners were required to file a separate motion and safe harbor notice on their cross-motion. This court should grant this petition to secure uniformity of its decisions. It is the well-established law of this circuit in Patelco Credit Union v. Sahni, 262 F.3d 897, 913 (9th Cir. 2001) that on a cross motion for sanction there is no requirement to file a separate motion and provide safe-harbor notice. See also Rule 11 Adv. Comm. Note to 1993 Amendment. The legal standard applied is not consistent with the decisions of this circuit.

IV. PETITION FOR PANEL REHEARING

A. The October 29, 2018 Memorandum Disregards Material Points of Law or Fact and Conflicts With Decisions Of This Court

Appellants incorporate by reference the arguments above in their petition for panel rehearing.

V. CONCLUSION

For the foregoing reasons petitioners requests that this court grant the

relief sought herein.

Dated: November 13, 2018

LAW OFFICE OF NINA R. RINGGOLD

By: s/ Nina R. Ringgold

Nina R. Ringgold, Esq.

Attorney for the Petitioner

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

OCT 29 2018

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

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. 17-16269

D.C. No. 2:12-cv-00717-JAM-JFM

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
John A. Mendez, District Judge, Presiding

Submitted October 22, 2018**

Before: SILVERMAN, GRABER, and GOULD, Circuit Judges.

Nina Ringgold, Justin Ringgold-Lockhart, and the Law Office of Nina
Ringgold appeal from the district court's order denying various post-judgment

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

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

motions. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion. *Hamid v. Price Waterhouse*, 51 F.3d 1411, 1415-16 (9th Cir. 1995). We affirm in part and vacate in part.

The district court did not abuse its discretion in denying plaintiffs' motion for disqualification because plaintiffs failed to establish extrajudicial bias or prejudice. *See* 28 U.S.C. § 455 (listing circumstances requiring recusal); *Clemens v. U.S. Dist. Court*, 428 F.3d 1175, 1178 (9th Cir. 2005) (test for disqualification of judge under § 455(a)). Contrary to plaintiffs' contention, the district court did not err by resolving the motion without an evidentiary hearing. *See* Fed. R. Civ. P. 78(b). We reject as without merit plaintiffs' arguments that the district court erred by denying their request for "intercircuit assignment" under 28 U.S.C. § 292.

The district court did not err in denying plaintiffs' motions for a three-judge panel. *See* 28 U.S.C. § 2284(a). We reject as without merit plaintiffs' contention that the district court lacked jurisdiction because the action was subject to the jurisdiction of a three-judge court.

The district court did not abuse its discretion in denying plaintiffs' motion for reconsideration and motion to vacate the judgment because plaintiffs failed to establish any basis for relief. *See Sch. Dist. No. 1J, Multnomah Cty., Or. v.*

ACandS, Inc., 5 F.3d 1255, 1262-63 (9th Cir. 1993) (setting forth standard of review and grounds for reconsideration under Fed. R. Civ. P. 59(e) and 60). We reject as without merit plaintiffs' contentions regarding the applicability of Fed. R. Civ. P. 52 and 54(b).

The district court did not abuse its discretion in taking judicial notice of the Central District of California's pre-filing order against Nina Ringgold and Justin Ringgold-Lockhart because courts may take judicial notice of documents in the public record. *See Lee v. City of Los Angeles*, 250 F.3d 668, 689 (9th Cir. 2001) (setting forth standard of review).

The district court did not abuse its discretion in sanctioning Nina Ringgold and Justin Ringgold-Lockhart under Fed. R. Civ. P. 11 because the record supports the conclusion that Ringgold and Ringgold-Lockhart filed their First Amended Complaint for the improper purpose of circumventing the pre-filing order. *See Fed. R. Civ. P. 11; Townsend v. Holman Consulting Corp.*, 929 F.2d 1358, 1361-62, 65 (9th Cir. 1990) (en banc) ("A district court confronted with solid evidence of a pleading's frivolousness may in circumstances that warrant it infer that it was filed for an improper purpose.").

The district court did not abuse its discretion in denying plaintiffs' motion

for sanctions because plaintiffs failed to comply with the “strict procedural requirements for parties to follow when they move for sanctions under Rule 11.” *Radcliffe v. Rainbow Constr. Co.*, 254 F.3d 772, 788 (9th Cir. 2001).

The district court, however, abused its discretion in imposing a \$1,000 monetary sanction on Nina Ringgold because the record does not support the district court’s conclusion that Ringgold violated a court order in a manner tantamount to bad faith. *See Fink v. Gomez*, 239 F.3d 989, 991-94 (9th Cir. 2001) (“[T]he district court has the inherent authority to impose sanctions for bad faith, which includes a broad range of willful improper conduct.”). We vacate the \$1,000 sanction against Nina Ringgold.

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

All pending motions and requests are denied.

Appellants shall bear the costs on appeal.

AFFIRMED in part and VACATED in part.

CERTIFICATION OF COMPLIANCE WITH CIRCUIT RULE 32

The undersigned certifies that the body of this petition is within the word count (3303 words) petitions under 9th Cir. R. 40-1 (a).

Dated: November 13, 2018

LAW OFFICE OF NINA R. RINGGOLD

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

CERTIFICATE OF SERVICE

I hereby certify that on November 13, 2018 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 PANEL REHEARING AND REHEARING EN BANC

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 November 13, 2018 at Los Angeles, California.

s/ Matthew Mellaragno

EXHIBIT 4

1 NINA R. RINGGOLD, ESQ. (SBN (CA) 133735)
2 LAW OFFICE OF NINA R. RINGGOLD
3 9420 Reseda Blvd. #361
4 Northridge, CA 91324
5 Telephone: (818) 773-2409
6 Facsimile: (866) 340-4312
7 Email: nrringgold@aol.com
8 Attorney for Plaintiffs

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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

) Case No.: 2:12-cv-00717-JAM-JFM
) SECOND AMENDED CLASS ACTION
) COMPLAINT
) (Jury Trial Demanded)

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.

)

CAUSES OF ACTION SPECIFIED IN THE COMPLAINT:

- 1 1. Declaratory, Injunctive, and Equitable Relief (Title 28 U. S. C. § 2201-2202)
- 2 2. Violation of the Public Trust Doctrine
- 3 3. Constitutional Vacancy of Office And Special Election In Local Districts Existing
4 Prior to Unification,
5 Declaratory and Equitable, Title 28 U. S. C. § 2201-2202,
6 Voting Rights Act Of 1965, As Amended, Fourteenth, and Fifteenth Amendment
- 7 4. Violation of the Political Reform Act
- 8 5. Title II of ADA, 42 U.S.C. §§ 12131, 12132
- 9 6. 504 of the Rehabilitation Act
- 10 7. Title 42 U. S. C. §§ 1981, 1982, 1983, 1985, 1986
- 11 8. Cal. Gov. Code § 11135 et seq.
- 12 9. Violation of Cal. Govt. Code § 8547 et seq. (Whistleblower Protection Act)
- 13 10. Violation of Cal. Civil Code § 51, 52
- 14 11. Violation of Cal. Civil Code § 51.7 & 52
- 15 12. Violation of Cal. Civil Code § 52.1 & 52
- 16 13. Violation Cal. Civil Code § 52.3
- 17 14. Violation Cal. Civil Code § 53 (b)
- 18 15. Violation Cal. Civil Code § 54, 54.1, 54.3, 55
- 19 16. Conversion
- 20 17. Equitable Relief and Imposition of Constructive Trust
- 21 18. Interference With Prospective Economic Advantage
- 22 19. Intentional Infliction of Emotional Distress
- 23 20. Negligent Infliction of Emotional Distress
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1 Plaintiffs the LAW OFFICES OF NINA RINGGOLD AND ALL CURRENT
2 CLIENTS THEREOF ("Law Office"), and ON BEHALF OF ALL PERSONS SIMILARLY
3 SITUATED IN THE STATE OF CALIFORNIA complain against defendants herein as
4 follows:

5 **JURISDICTION AND VENUE**

6 1. Jurisdiction of this Court over the subject matter of this action is predicated on
7 28 U.S.C. § 1331. Plaintiffs' claims arise from violation of rights guaranteed under the
8 First, Fifth, Thirteenth, Fourteenth, and Fifteenth Amendment of the United States
9 Constitution and laws of the United States, including but not limited to, the Voting Rights
10 Act of 1965 (42 U.S.C. § 1973 et.seq.)(as amended), Title II of the Americans with
11 Disabilities Act, 504 of the Rehabilitation Act, and Title 42 U.S.C. §§ 1981, 1982, 1983, 1985,
12 and 1986. Given the substantial controversy this court also has jurisdiction to grant the
13 declaratory, injunctive, and equitable relief sought under 28 U.S. C. §§ 2201-2202.

14 2. Jurisdiction is also predicated on 28 U.S.C. § 1333 (a)(1)-(3) which provides that
15 the district courts shall have original jurisdiction of any civil action authorized by law to
16 be commenced by any person:

17 (1) To recover damages for injury to his person or property, or
18 because of the deprivation of any right or privilege of a citizen of
19 the United States, by any act done in furtherance of any conspiracy
20 mentioned in section 1985 of Title 42;

21 (2) To recover damages from any person who fails to prevent or
22 to aid in preventing any wrongs mentioned in section 1985 of Title
23 42 which he had knowledge were about to occur and power to prevent; or

24 (3) To redress the deprivation, under color of any State law,
25 statute, ordinance, regulation, custom or usage, of any right,

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

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

9 4. Venue in this district is proper pursuant to 28 U.S.C. § 1331 (a) and (b). All
10 defendants reside in the State of California and this is the district in which defendant
11 Jerry Brown performs his duties and the district in which he resides. Venue is also proper
12 in this district because this is the district with the largest number of state court judgeships
13 in the State of California which are not impacted by the self-effectuating constitutional
14 resignations caused by the receipt of supplemental benefits that were held to be
15 unconstitutional in Sturgeon v. County of Los Angeles, 167 Cal.App.4th 630 (Cal. 2008)
16 ("Sturgeon I"). (See **Exhibit 1** Supplemental Judicial Benefits by Court as of July 1, 2008).¹

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20 **PARTIES**

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

1 need for competent, ethical, economical, and efficiently managed public court system
2 (which presently receives federal, state, and local government sources of funding); the
3 need for a special election of a constitutionally formed court; the need for fair notice so
4 that proper governmental claims may be filed; and the need for relief for injuries and
5 damages suffered during an existing unconstitutional condition.
6

7 7. Defendant Jerry Brown (“Brown”) is currently the Governor of the State of
8 California. As Governor, he is vested with “the supreme executive power” of the State
9 and “shall see that the law is faithfully executed.” Cal. Const. art. 5 § 1. Defendant Brown
10 was also the former Attorney General of the State of California during various events at
11 issue in this complaint. He was the “chief law officer” of the State and had the duty to
12 “see that the laws of the State were uniformly and adequately enforced.” Cal. Const. art.
13 5, § 13. Additionally, former Attorney General Brown had “direct supervision over every
14 district attorney” in the State. *Id.* If, at any point a district attorney of the State fails to
15 enforce adequately “any law of the State,” the Attorney General must “prosecute any
16 violations of the law.” *Id.* Finally, the Attorney General “shall assist any district attorney
17 in the discharge” of duties when “required by the public interest or directed by the
18 Governor...” *Id.* The former Governor prior to Brown was Arnold Schwarzenegger.
19

20 8. Defendant Kamala Harris (“Harris”) is the current Attorney General of the State
21 of California. She is the “chief law officer” of the State and has the duty to “see that the
22 laws of the State are uniformly and adequately enforced.” Cal. Const. art. 5, § 13.
23 Additionally, Attorney General Harris has “direct supervision over every district
24 attorney” in the State. *Id.* If, at any point a district attorney of the State fails to enforce
25 adequately “any law of the State,” the Attorney General must “prosecute any violations of
26 the law.” *Id.* Finally, the Attorney General “Shall assist any district attorney in the
27

1 discharge" of duties when "required by the public interest or directed by the Governor..."

2 *Id.*

3 9. Defendant Commission on Judicial Performance is an independent state agency
4 charged with investigating complaints of judicial misconduct and judicial incapacity and
5 for disciplining judges. Its jurisdiction includes all judges of the state superior courts and
6 the justices of the Court of Appeal and Supreme Court. Cal. Const. art. 6 § 18 (d). "The
7 Commission on Judicial Performance consists of one judge of a court of appeal, and two
8 judges of superior courts, each appointed by the Supreme Court; two members of the
9 State Bar of California who have practiced law in this State for 10 years, each appointed
10 by the Governor; and six citizens who are not judges, retired judges, or members of the
11 State Bar of California, two of whom shall be appointed by the Governor, two by the
12 Senate Committee on Rules, and two by the Speaker of the Assembly." Cal. Cons. Art. 6 §
13 8 (a). The California Constitution does not permit the Legislature to restrict the
14 constitutional scope of the commission's authority. Nevertheless, Section 5 of Senate Bill
15 SBX2 11, usurps and restricts the constitutional scope of the authority of the Commission
16 on Judicial Performance to the detriment of the plaintiffs and the citizens of the State of
17 California.

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

1 Whistleblower Protection Act and the auditor is required to investigate and report
2 improper governmental activities. (California Government Code §§ 8547, 8547.5).
3 Plaintiffs have reported improper governmental activities and were retaliated against and
4 severely penalized. Plaintiffs again report such conduct and report such conduct to
5 Howle by this complaint. Plaintiffs seek protection pursuant to statutory authority. The
6 State Auditor identifies its mission as promoting "the efficient and effective management
7 of public funds and programs by providing citizens and government independent,
8 objective, accurate, and timely evaluations of state and local governments' activities".
9 (<http://bsa.ca.gov/aboutus/mission>). Howle may conduct performance audits, financial
10 audits, and investigations of every office or department of the executive and judicial
11 branch of the state government.
12

13 11. There is a constitutional conflict and dispute between state and local agencies
14 and the Commission on Judicial Performance which prohibit the plaintiffs and citizens of
15 the State of California from taking action to preserve their legal and constitutional rights
16 and which prohibit plaintiffs from effectively exercising their constitutional function as
17 electors in judicial elections. The California Constitution reserves all rights and powers as
18 to judicial elections to the people of the State of California. See Bearden v. Collins, 220
19 Cal. 759, 762 (Cal. 1934), Lundgren v. Davis, 234 Cal.App.3d 806, 814 (Cal. 1991). The
20 judges receiving supplemental benefits deemed unconstitutional are paid as both
21 employees of the state and the county. There has been self-effectuating constitutional
22 resignations giving rise to the need for a special judicial election, the legal remedy
23 available for constitutional injury is unclear. In addition to a special judicial election
24 plaintiffs seek legal and equitable remedies due to constitutional injury. Plaintiffs
25 contend it is not a reasonable proposition for this matter to be resolved by litigation
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against each judge for that normally would be a function of the State Attorney General.
1 However, the State Attorney General's Office has a conflict in that it currently and in the
2 past has represented judges and government entities subject to the constitutional
3 challenge and the judges and government entities that benefit from the retroactive
4 immunity provision of section 5 of SBX2 11. This conflict is further compounded by the
5 fact that the current Governor was the former attorney general and also represented
6 judges and government entities subject to constitutional challenge. Therefore, plaintiffs
7 allege herein, that by failing to enforce the law and the constitution, and failing to
8 respond from 2009 to present to the request for opinion of the Commission on Judicial
9 Performance, the Governor and the State Attorney General stand in the shoes of the
10 judges causing the constitutional injuries and damages. Plaintiffs, who are persons who
11 cannot effectively protect their own legal rights and claims, assert that the claims are
12 effectively assigned temporarily to the Governor and Attorney General as public trustees
13 of a vital public resource – the public courthouses in the County of Los Angeles and
14 operations therein. For the purposes of pleading and statutory interpretation, pending a
15 declaratory determination by this court and the appointment of special counsel as public
16 trustee as requested herein, the Governor and Attorney General should be treated as
17 temporary public trustees responsible for the public trust (the public courthouses and
18 operations therein) and responsible for the damages caused by state employees and
19 government entities who are given immunity under section 5 of SBX2 11; responsible for
20 the persons (employees) who have caused a vacancy in judicial office; and responsible for
21 the constitutional injuries and damages incurred. Plaintiffs therefore request that this
22 court allow leave to amend this complaint, as necessary, to add as a party any person or
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1 entity that relates to this complaint and to add any claim or bifurcate any claim pled
2 herein.

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

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

16 (a) Many United States citizens who are members of a protected class have
17 unreasonably been deprived of notice that persons presiding over cases in the state trial
18 courts have been deemed County officials and are receiving supplemental benefits in
19 contradiction to Article VI § 17 of the California Constitution and of notice of the
20 retroactive immunity provision of section 5 of SBX2 11. Moreover, the state court has not
21 maintained a proper or adequate grievance process which is essential to continued
22 funding by the state and federal government. Instead, it has implemented procedures
23 (including but not limited through CCP § 391.7) as a penalty, and form of viewpoint
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discrimination, and retaliation in violation of the First Amendment of the United States
1
2 Constitution. The class is numerous and joinder of all members is impracticable.

3 (b) There are questions of law and fact common to the class, including
4 whether the challenged practices violate the First, Fifth, Thirteenth, Fourteenth, and
5 Fifteenth Amendment of the United States Constitution and state and federal law,
6 whether there has been a self-effectuating constitutional resignation under California
7 Constitution Article VI § 17 and need for special election, and whether section 5 of SBX2
8 11 is unconstitutional.

9
10 (c) Plaintiffs are all members of a protected class and their claims are typical
11 of the claims of the class because such persons have filed claims or asserted grievances,
12 and/or they are associated with persons seeking institutional reform, and/or had pending
13 constitutional and/or federal claims prior to publication of Sturgeon I and the enactment
14 of section 5 of SBX2 11.

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

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

21 GOVERNMENT CLAIM

22 15. To the extent applicable, plaintiffs timely filed claims and this action including
23 as to claims that may be covered under the California Government Claims Act. Attached
24 hereto as **Exhibit 2** is copy of an example of a Government Claim Form submitted to
25 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).

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

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

9
10 “SEC. 17. A judge of a court of record may not practice law and
11 during the term for which the judge was selected *is ineligible for*
12 *public employment or public office* other than judicial employment or
13 judicial office, except a judge of a court of record may accept a
14 part-time teaching position that is outside the normal hours of his
15 or her judicial position and that does not interfere with the regular
16 performance of his or her judicial duties while holding office. A
17 judge of a trial court of record may, however, become eligible for
18 election to other public office by taking a leave of absence without
19 pay prior to filing a declaration of candidacy. *Acceptance of the*
20 *public office is a resignation from the office of judge.*

21 A judicial officer may not receive fines or fees for personal use.

22 A judicial officer may not earn retirement service credit from a
23 public teaching position

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

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

2 "SEC. 19. The Legislature shall prescribe compensation for judges of
3 courts of record.

4 A judge of a court of record may not receive the salary for the
5 judicial office held by the judge while any cause before the judge
6 remains pending and undetermined for 90 days after it has been
7 submitted for decision."

8 22. Sturgeon I found that as of January 1, 2007 that the California Legislature had set
9 salaries of superior court judges at \$172,000 and that additional, supplemental benefits
10 paid by the County raised that compensation by \$46,346, or approximately 27 %, to
11 \$218,346 in 2007. Sturgeon I at 635-636. Sturgeon also expressly found that the judges of
12 the Superior Court of the County of Los Angeles were treated as salaried employees of
13 the County. Id. at 635.

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

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

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

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

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

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

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

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

5 29. The 1997 Lockyer-Isenberg Trial Court Funding Act was hailed as a method to
6 provide consistent and stable funding for the state trial courts. However, it was known at
7 the time the unification statute was implemented that it would dilute minority voting
8 power in the judicial election procedures and lessen the likelihood of achieving the goal of
9 diversity in the judiciary (to reflect California's population). See **Exhibit 6**, California
10 Law Revision Commission, Staff Memorandum 95-79 (Trial Court Unification: Voting
11 Rights Act) ("...[U]nder Section 2 [of the Voting Rights Act] in large counties, such
12 as...Los Angeles...conversion of a municipal court judgeship to a superior court
13 judgeship may deprive minority voters of representation by diluting their voting
14 strength. While a minority group may have sufficient cohesiveness and numbers to elect
15 a municipal court judgment in a municipal court district, the group may not be numerous
16 enough on a countywide basis to elect a superior court judge. Vote dilution may also
17 occur if conversion of a judgeship results in municipal court redistricting."). Counties
18 have recently claimed that the unconstitutional supplemental compensation to judges was
19 "necessary" to recruit "qualified" minority judges, when in fact the supplemental
20 compensation was designed to maintain an insider group and at the same time dilute the
21 voting strength in minority communities. The unconstitutional supplemental
22 compensation and unification statute was designed to maintain a discriminatory system
23 of exclusion of qualified minority judges and limit the development of a more inclusive
24 and diverse judiciary. In 2011 approximate 73.6 % of the state judiciary was White, 5.2%
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1 African American, and 7.5% Latino as compared to 40.1%, 6.2%, and 37.6% of the
2 respective groups in the population in the State of California in the same year.

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

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

7 "The commission understands that judges in a number of courts receive
8 supplemental compensation, and the value of the supplemental compensation
9 varies between courts. In Los Angeles County, the county contributes 19 percent
10 of the judge's salaries to a MegaFlex Cafeteria Benefit Plan. The judges either
11 spend it on medical, dental or vision coverage, or life and disability insurance (all
12 in addition to the salary and benefits provided to them by the state.). Any portion
13 of the county's contribution that is not used to purchase such benefits is paid to the
14 judges as taxable income. The county also matches the judge's 401k contributions
15 up to four percent of salary. In the fiscal year 2007, each judge was eligible to
16 receive \$46,436 in supplemental compensation from the county, representing 27
17 percent of his or her salary prescribed by the Legislature, at a cost to the county of
18 \$21 million. *Sturgeon*, 167 Cal.App.4th at 635-636... Judges in some counties receive
19 nothing."....

20 "There were no public hearings on SB 11. It was inserted into the Budget Act of
21 2008 at the last minute on February 14, 2008, and passed the same day."

22 32. As to the authority to enact legislation purporting to preclude the
23 Commission from disciplining judges for authorizing supplemental compensation to be
24 paid to themselves from public funds, and/or receiving that supplemental compensation
25 Director and Chief Counsel of the Commission stated:
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27 "The commission concludes that the Legislature does not have this authority, and
28 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

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

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

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

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

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16 “Most clearly with respect to the unrestricted cash payments judges are receiving,
17 it does not appear that simply attaching the label ‘benefit’ to the payment could
18 legitimately convert it into something other than an impermissible payment of
19 enhanced judicial salary. Judges are entitled to these cash and ‘cash-in-lieu’
20 payments simply by virtue of holding the office of judge, and receive the money
21 regardless of the quantity or quality of work performed. These types of cash
22 benefits appear to be ‘salary’, as commonly defined. As stated in *People ex rel.*
23 *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’.....” Id.

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

1 constitutional entities, councils, commissions, auditors, elected or appointed officials,
2 constitutionally resigned judges, and persons holding positions of public trust can or
3 should be allowed to prevent the this action for relief; continue to operate in secrecy;
4 continue to be unaccountable financially and ethically to the people; or continue with acts
5 of retaliation and coercion against members of the public including attorneys representing
6 clients who legitimately attempt to question the jurisdiction, authority, fiscal
7 responsibility, and total inability to legitimately and fairly address grievances (including
8 but not limited to matters of institutional discrimination). Plaintiffs contend that the
9 people have a right to control the entities and instruments they have created and seek a to
10 special election to restore public trust to the State of California and implement a truly
11 diverse judiciary which reflects the population of the state. California Government Code
12 § 54590 mandates as follows:

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

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

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

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

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

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17 37. The fact that the proceedings are being conducted without a valid or authorized
18 judicial function in accord with the California Constitution should be disclosed to the
19 litigants and they should be afforded an opportunity to decline to participate in the
20 unconstitutional condition. Rooney v. Vermont Investment Corporation, 10 Cal.3d 351
21 (Cal. 1973), People v. Tijerina, 1 Cal.3d 41 (Cal. 1969). Currently in the courts where there
22 exist supplemental payments by the county without constitutional authority leads to a
23 private organization functioning and housed in facilities owned and operated by the state.
24 It would be one thing if this was a theoretical exercise, however, citizens who have been
25 forced to participate in this unconstitutional enterprise (without disclosure or consent) are
26 being deprived equal protection, due process, and fair proceedings consistent with the
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1 law. Section 5 of SBX2 11 is claiming to provide retroactive immunity (even for claims
2 under federal law and the United States Constitution). There have been overwhelming
3 number of grievances arising the Superior Court. This is not just about budget matters
4 but rather involve existing and severe constitutional structural problems that deprive
5 litigants of meaningful and fair access to the court and the right to elect a judiciary which
6 reflects the population. Various departments have a direct economic stake in cases i.e.
7 operation of the probate department (including through attorney fees, estate
8 administration fees), and other fees.³ Plaintiffs have or have had cases pending in various
9 areas of the state court.

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

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

1 RETALITATION AND DISCRIMINATION IN THE STATE COURT

2 California Code of Civil Procedure § 391.7 3 And Recent Legislative Modification

4
5 39. On July 1, 2011 a segment of the California Vexatious Litigant Statute, CCP §
6 391.7 was modified to allow a justice of an appellate court to bar an appeal by imposition
7 of a pre-filing order. Also, for the first time in the statute's history there is a method to be
8 removed from the vexatious litigant list maintained by the California Judicial Council.

9 (Exhibit 5). Plaintiffs assert facial and as applied challenges this segment of the state
10 statute. Also, plaintiffs on behalf of themselves and those similarly situated bring this
11 action, in part, based on 42 U.S.C. § 1983 seeking declaratory and injunctive relief against
12 enforcement of CCP § 391.7 as applied in the first instance in a state appellate court
13 without the mandatory statutory due process motion in the trial court, as applied to
14 persons acting in a representative capacity (i.e. attorneys, trustees, executors, guardians,
15 conservators), as applied to persons who are not appearing in propria persona and are
16 represented by an attorney, and as applied to persons (including litigants, witnesses, and
17 attorneys) that are requesting an accommodation for disability.
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20 40. Plaintiffs that are involved in cases concerning private trusts or estates have a
21 constitutionally protected legal and property interests in the persons designated as
22 owning the intangible property right in the power of appointment and discretion. Said
23 plaintiffs have a direct property interest in the named trustees or executors specified in
24 the trust instrument or will maintaining (1) the legal right to act in legal proceedings in a
25 representative capacity, and (2) the power to control and dispose of property under the
26 express terms of the trust instrument or will. Said plaintiffs are harmed by policies which
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1 allows property to be taken or disposed of without the mandatorily required bond or
2 inadequate bond and by proceedings conducted without notice.

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

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

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

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

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

16 45. CCP § 391.1 states:

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

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

1 “391.7. (a) In addition to any other relief provided in this title, the court may,
2 on its own motion or the motion of any party, enter a prefiling order which
3 prohibits a vexatious litigant from filing any new litigation in the courts of
4 this state in propria persona without first obtaining leave of the presiding
5 justice or presiding judge of the court where the litigation is proposed to be
6 filed. Disobedience of the order by a vexatious litigant may be punished as a
7 contempt of court.

8 (b) The presiding justice or presiding judge shall permit the filing of that
9 litigation only if it appears that the litigation has merit and has not been filed
10 for the purposes of harassment or delay. The presiding justice or presiding
11 judge may condition the filing of the litigation upon the furnishing of
12 security for the benefit of the defendants as provided in Section 391.3.”
(Emphasis added to show statutory revisions)

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

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

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

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

3 Article VI, section 3 states:

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

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

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

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

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

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

7 52. Plaintiffs refer to and incorporate, as though set forth herein in full, paragraphs
8 1 through 51 above.

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

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

plaintiffs.

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

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

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

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

17 56. Plaintiffs also further request declaratory and equitable relief by requiring
18 defendant Howle to conduct a performance, financial, and investigative audit of the
19 Superior courts impacted by self-effectuating resignations with input by plaintiffs and
20 that this report be provided to plaintiffs. Plaintiffs request that there be investigation as
21 to the probate department of the Los Angeles Superior Court which includes fees which
22 are paid to court adjuncts that exceed the statutory limits allowed by law, methods of
23 handling bonding requirement, publication of notice, method of case management
24

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

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

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

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

13 60. In addition plaintiffs request relief as prayed herein.

14 **SECOND CAUSE OF ACTION**
15 **Violation of Public Trust Doctrine**
16 **(All defendants)**

17 61. Plaintiffs refer to and incorporate, as though set forth herein in full, paragraphs
18 1 through 60 above.

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

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

1 64. A public courthouse accessible to the people, operating in a fiscally responsible
2 and ethical manner in accord with the requirements of the California and United States
3 Constitution is a public resource – part of the public trust – and essential to a free and
4 democratic society. Defendants as trustees of a public trust have failed to protect the
5 public beneficiaries (the people of the State of California) with respect to the public trust.
6 Defendants have disregarded that public resources have been used for private or
7 individual gain (against the constitutional requirements) and at the same time have
8 disregarded their constitutional duty or have conflicts which impair their constitutional
9 dues.
10

11 65. There are irreconcilable conflicts and grievances and complaints of the public
12 lodged with the office of the defendants and gone unanswered.
13

14 66. The Attorney General has not released any opinion as requested by the
15 Commission on Judicial Performance on April 3, 2009 and May 23, 2011.
16

17 67. The Commission of Judicial Performance has failed to make its requests for legal
18 opinion by the California Attorney General accessible to the public or take any action.
19

20 68. Defendants cannot dispose of unique public resources in a way that the public's
21 access is substantially impaired.
22

23 69. The operation of functions of the public trust by municipalities and payment of
24 supplemental benefits (particularly in the court departments where the municipality has a
25 direct economic interest) impairs the public trust, public access, and functions for its own
26 benefit and the financial gain of private interests of private parties.
27

28 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:
29

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

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

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

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

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

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

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

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

4 74. In addition plaintiffs request relief as prayed herein.

5 **THIRD CAUSE OF ACTION**

6 **Constitutional Vacancy of Office And Special Election**

7 **In Local Districts Existing Prior to Unification**

8 **Declaratory and Equitable, Title 28 U. S. C. § 2201-2202**

9 **Voting Rights Act Of 1965, As Amended,**

10 **Fourteenth and Fifteenth Amendment**

11 **(Against Brown and Harris and in their Capacity as Temporary Public Trustees**

12 **[Pending Appointment By District Court])**

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

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

17 77. Upon acceptance of public employment and office of a judge of a court of record
18 there is an immediate and automatic resignation. Plaintiffs are not required to move for
19 judicial disqualification or to bring an action quo warranto because the California
20 Constitution provides an express remedy by immediately effectuating a constitutional
21 vacancy of office. Therefore, under the present circumstance there is no person "holding
22 judicial office" in the Superior Court of the County of Los Angeles or need to remove or
23 take any proceeding. There is a need for disclosure to the people and declaration of the
24 existing condition. Plaintiffs are not required to bring an action against each judge of
25
26
27
28

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

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

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

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

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

22 81. Because of this conflict of interest plaintiffs contend that Brown and Harris
23 should only function as temporary public trustees as to the procedures for the special
24 election or filing vacancies pending appointment of public trustee by this court (from the
25 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
1 commission declined to pursue action by letter dated March 30, 2012. Plaintiffs timely
2 filed this action thereafter.
3

4 88. Under the Political Reform Act the interpretation of the statute and the
5 definitions therein must be consistent with the context. Plaintiffs contend that the
6 applicable context is the existing condition of self-effectuating constitutional resignations.
7 Therefore, the statute must be interpreted consistent with the California Constitution and
8 its purpose of having persons in elected or appointed office performing their duties in an
9 impartial manner frees from bias or their own financial interests or the financial interest of
10 persons who have supported them. Judges and commissioners are required to file
11 statements of economic interest with the Fair Political Practices Commission. Cal. Govt.
12 Code § 87500 (i).
13

14 89. The only way that members of the public could be aware of the supplemental
15 payments deemed unconstitutional under Sturgeon I would be by voluntary disclosure or
16 filing of a public statement of economic interest under the Political Reform Act. See Cal.
17 Govt. Code § 81008.
18

19 90. Under the Political Reform Act the conflict of interest provisions apply to public
20 officials. California Government Code § 82048 (b)(1) excludes a judge or court
21 commissioner as a public official but includes judges of the courts of record as elective
22 officers or elected state officers. However, on the effective date of a self- effectuating
23 constitutional resignation under Article VI § 17 of the California Constitution all judges of
24 the courts of record who had accepted public employment and office immediately ceased
25 to function as judges and had not been assigned duties as commissioners (which requires
26 disclosure and written consent of the litigants). Plaintiffs contend at the point of self-
27

1 effectuating constitutional resignation and in any future special election there must be
2 compliance with the conflict of interest and disclosure provisions of the Political Reform
3 Act. Also, they further contend, that at the point of the Sturgeon I decision, under
4 California Government Code § 29320 officers of the county included the Superior Court
5 and there was self-effectuating constitutional resignations as County officers.
6

7 91. Under California Government Code § 82030 (b)(2) income is defined as not
8 including "salary and reimbursement for expenses or per diem" or "benefit payments
9 received from a state, local...agency". Under California Government Code § 87200 et seq.
10 judges and commissioners as candidates for office are required to file a statement
11 disclosure his investments, interests in real property, and any income received during the
12 immediately preceding 12 months. See also Cal. Govt. Code § 84200 et. seq (campaign
13 statements)
14

15 92. Plaintiff seek all applicable statutory penalties and fines under California
16 Government Code § 91000 et seq. and that such statutory penalties and fines be paid for
17 the benefit of the plaintiff class.
18

19 93. Plaintiffs have been injured and will continue to suffer injuries and damages and
20 requests declaratory and injunctive relief. Plaintiffs have or will incur attorney's fees,
21 expert fees, and costs and seek an award in an amount according to proof. The request
22 for fees includes but is not limited to fees under the Civil Rights Attorney Fees Awards
23 Act of 1976 (42 U.S.C § 1988).
24

25 94. In addition plaintiffs request relief as prayed herein.
26

FIFTH CAUSE OF ACTION

Title II of the Americans with Disabilities Act ("ADA")

42 U. S. C. § 12131, 12132

3 (All Defendants, Except the Commission)

Also Against Brown and Harris and in their Capacity as Temporary Public Trustees [Pending Appointment By District Court])

5 95. Plaintiffs refer to and incorporate, as though set forth herein in full, paragraphs
6 1 through 94 above.

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

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

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

- 19 a. Intentionally being denied telephonic access to the court including when six
20 non-disabled attorneys were allowed telephonic access on the same day.
- 22 b. Being denied reasonable modification of rules and policies.
- 23 c. Being denied access to proceedings in a retaliatory manner.
- 24 d. Having confidential information regarding the disability posted on the
25 court's website.
- 27 e. Being charged for fees for the accommodation requests.
- 28 f. Being burdened 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.

1. 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

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

3 102. In addition plaintiffs request relief as prayed herein.

4 **SIXTH CAUSE OF ACTION**

5 **504 of the Rehabilitation Act**

6 **(All Defendants, Except the Commission)**

7 **Also Against Brown and Harris and in their Capacity as Temporary Public Trustees**
8 **[Pending Appointment By District Court])**

9 103. Plaintiffs refer to and incorporate, as though set forth herein in full, paragraphs
10 1 through 102 above.

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

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

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

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

24 b. Being denied reasonable modification of rules and policies.

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

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

3 e. Being charged for fees for the accommodation requests.

4 f. Being burden with undue and unwarranted administrative obstacles

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

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

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

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

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

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

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

108. Each court did not have a grievance procedure or persons designated to oversee
1
2 Title II compliance. (See Title II Technical Assistance Manual II-8.1000). Plaintiffs were
3 discriminated against within the meaning of 42 U.S.C. § 12132 by being denied the
4 benefits of services, programs, or activities this includes but is not limited to:

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

7 b. Being denied reasonable modification of rules and policies.

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

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

11 e. Being charged for fees for the accommodation requests.

12 f. Being burden with undue and unwarranted administrative obstacles

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

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

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

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

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

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

the requirements of the rules of court.

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

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

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

19 112. 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).

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

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

6 120. As a direct and proximate result of its conduct, plaintiffs have or will incur
7 attorney's fees, expert fees, and costs and seek an award in an amount according to proof.
8 The request for fees includes but is not limited to fees under the Civil Rights Attorney
9 Fees Awards Act of 1976 (42 U.S.C § 1988).
10

11 121. Defendants' acts were malicious and were willful and oppressive and justify an
12 award of punitive damages according to proof particularly in light of the fact that they are
13 charge with the obligation to protect the public.
14

15 122. Plaintiffs seeks declaratory and injunctive relief against these defendants.
16

17 123. In addition plaintiffs request relief as prayed herein.

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

20 124. Plaintiffs refer to and incorporate, as though set forth herein in full, paragraphs
21 1 through 123 above.

23 125. All citizens of the United States have the same right as enjoyed by white citizens
24 to inherit, purchase, lease, sell, hold, and convey real and personal property. Defendants
25 were aware of the substantial grievances made by racial and language minorities and
26 members of a protected class and the community at large concerning the discriminatory
27 conduct, rules, policies, and practices in the Superior Court of the County of Los Angeles
28 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

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

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

6 136. In addition plaintiffs request relief as prayed herein.

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

8 137. Plaintiffs refer to and incorporate, as though set forth herein in full, paragraphs
9 10 11 through 136 above.

12 **United States Constitution –Fourteenth Amendment**
13 **(Equal Protection)**

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

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

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

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

4 141. Because plaintiffs object to the nullification of the constitutional framework they
5 have subjected to unequal treatment in court proceedings.
6

7 142. Plaintiffs have been barred access to the court, evidence, and legal
8 representation. They have been subjected to discriminatory criteria and qualifications.
9

10 143. Plaintiffs have been deprived of fair access, equal protection, and due process by
11 application of California Code of Civil Procedure § 391.7 without the required due
12 process motion filed by a defendant or hearing in state trial court which would, at
13 minimum, allow a right of appeal.
14

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

15 144. Plaintiffs have been deprived their constitutional rights under the First
16 Amendment of the United States Constitution by conduct including but not limited to:
17

18 a. Suffering penalties and deprivation of property for expressing their
19 viewpoint of matters of public debate, making grievances and asserting right of free
20 speech.
21

22 b. Suffering penalties or obstacles that impair their associational interests in
23 violation of the First Amendment. See Perry v. Schwarzenegger, 591 F.3d 1147, 1154, 1159
24 (9th Cir. 2010) (“effective advocacy of both public and private points of view, particularly
25 controversial ones, in undeniably enhanced by group association”), NAACP v. Alabama,
26 357 U.S. 449, 460 (1958), NAACP v. Button, 371 U.S. 415 (1963), NAACP v. Patterson, 357
27
28

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

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

6 d. Suffering penalties for raising grievances about court proceedings.

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

9

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

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

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

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

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

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

when there did not exist jurisdiction or constitutional authority.

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

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

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

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

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

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

TITLE 42 U.S.C. § 1985

1
2 148. Plaintiffs refer to and incorporate, as though set forth herein in full, paragraphs
3 1 through 147 above.
4

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

18
19 150. Any person that attempts to raise a legitimate constitutional issue and question
20 concerning the impact of section 5 of SBX2 11 or the operation of the state court is
21 submitted to threats, intimidation, and violence to their person and property. This is
22 despite the fact that State Auditor Elaine Howle reported that the administrative office of
23 the courts had wasted approximately \$1.9 billion in a failed statewide case management
24 system. On the same day this action was filed (March 21, 2012) the Superior Court of the
25 County of Los Angeles entered an emergency resolution temporarily suspending
26 operation of its local rules. Two months later this court suspended local rules with respect
27 to court reporter availability and now 10 courthouses are set to be closed by June 2013.
28

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

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

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

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

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

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

24 156. In addition plaintiffs request relief as prayed herein.

TITLE 42 U.S.C. § 1986

1
2 157. Plaintiffs refer to and incorporate, as though set forth herein in full, paragraphs
3 1 through 156 above.
4

5 158. Defendants knew and were in a position to know the acts specified above and
6 had the power to prevent or aid in the prevention of such conduct and refused to do so.
7

8 159. As a direct and proximate result of its conduct, plaintiffs have suffered and will
9 continue to suffer damages including economic and compensatory, in an amount
10 according to proof.
11

12 160. As a direct and proximate result of its conduct, plaintiffs have or will incur
13 attorney's fees, expert fees, and costs and seek an award in an amount according to proof.
14 The request for fees includes but is not limited to fees under the Civil Rights Attorney
15 Fees Awards Act of 1976 (42 U.S.C § 1988).
16

17 161. Defendants' acts were malicious and were willful and oppressive and justify an
18 award of punitive damages according to proof particularly in light of the fact that they are
19 charge with the obligation to protect the public. There could be no legitimate public
20 interest in attempting to provide retroactive immunity even to actions maintained under
21 the United States Constitution and federal law.
22

23 162. Plaintiffs seeks declaratory and injunctive relief against these defendants.
24

25 163. In addition plaintiffs request relief as prayed herein.
26
27
28

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.

1 Although attorneys are not employees of the court they are officers of the court and can
2 only appear as such officer through license. Garrison v. McGowan 48 Cal. 592, 595 (1874).
3 Also the California State Supreme Court has held that the State Bar is analogous to a state
4 agency. See Keller v. State Bar of California 47 Cal.3d 1152, 1167(Cal. 1989). Pursuant to
5 California Government Code § 8547.2 the statutory term “employee” includes an
6 individual holding office in a state agency as defined in California Government Code §
7 11000. (Cal. Govt. Code § 11000 includes every state office, officer, department, and
8 commission.)

9
10 176. Defendants were a substantial factor in the harm to plaintiffs.

11
12 177. Plaintiffs seek declaratory and injunctive relief against these defendants. As
13 part of the declaratory relief plaintiff seek a declaration that all licensed attorneys in the
14 State of California are protected under the Whistleblower Protection Act. If California
15 Attorneys are not protected under this statute the client plaintiffs are subjected to
16 substantial harm in the form of retaliation and by impairing advocacy on behalf of clients
17 with respect to issues concerning reform and the fair administration of justice in the state.

18
19 178. As a direct and proximate result of defendants’ conduct, plaintiffs have suffered
20 and will continue to suffer damages including economic and compensatory, in an amount
21 according to proof.

22
23 179. Defendants’ acts were willful and oppressive and justify an award of punitive
24 damages according to proof.

25 180. 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

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

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

9 188. The condition of the operational and constitutional defects in the state court in
10 the County of Los Angeles; taking of private property; lack of grievance procedures, lack
11 of safeguards to prohibit discrimination, misconduct, conflicts of interest; lack of equal
12 access to the court for persons with disabilities; inequitable application of filing fees, court
13 reporter and interpreter services; improper case management and file management; and
14 lack of and ADA Coordinator as specified in Rule 1.100, and conduct described herein
15 and in the government claims filed support the claims under the Unruh Civil Rights Act.
16

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

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

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

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

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

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

7 194. In addition plaintiffs request relief as prayed herein.

8
9 **ELEVENTH CAUSE OF ACTION**
10 **Violation of California Ralph Civil Rights Act**
11 **Cal. Civil Code § 51.7 & 52**
12 **(Brown, Harris)**

13 **Also Against Brown and Harris and in their Capacity as Temporary Public Trustees**
14 **[Pending Appointment By District Court])**

15 195. Plaintiffs refer to and incorporate, as though set forth herein in full, paragraphs
16 1 through 194 above.

17 196. California Civil Code § 51.7 provides:

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

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

1 198. As a direct and proximate result of defendants' conduct, failure to enforce the
2 law and constitution, and control its employees, plaintiffs have suffered and will continue
3 to suffer damages including economic and compensatory, in an amount according to
4 proof. Plaintiffs also seek declaratory, injunctive, and equitable relief. By this complaint
5 plaintiffs seek immediate enforcement of the law of the state and the California
6 Constitution.
7

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

10 200. Defendants' acts were willful and oppressive and justify an award of punitive
11 damages according to proof.
12

13 201. In addition plaintiffs request relief as prayed herein.

14 **TWELFTH CAUSE OF ACTION**
15 **Violation of California Bane Civil Rights Act**
16 **Cal. Civil Code § 52.1 & 52**
17 **(Brown, Harris)**

18 **Also Against Brown and Harris and in their Capacity as Temporary Public Trustees**
19 **[Pending Appointment By District Court]**

20 202. Plaintiffs refer to and incorporate, as though set forth herein in full, paragraphs
21 1 through 201 above.

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

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

1 including for (association with the Law Office). Plaintiffs have suffered interference with
2 the exercise and enjoyment of rights secured by the California Constitution and laws of
3 the State of California and the United States Constitution or laws of the United States as
4 specified herein. Additionally as to the laws of the United States, the conduct was
5 intended to interfere with rights under Civil Rights Act of 1964 (Title II § 201 (a), 202, 203,
6 42 U.S.C. 2000a, 2000a-1, 2000a-2, Title VI § 601, 42 U.S.C. §2000d) and 18 U.S.C. § 245.
7

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

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

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

18 208. In addition plaintiffs request relief as prayed herein.

19
20
21
22 **THIRTEENTH CAUSE OF ACTION**
23 **Violation Cal. Civil Code § 52.3**
24 **(Brown, Harris)**

25 **Also Against Brown and Harris and in their Capacity as Temporary Public Trustees**
26 **[Pending Appointment By District Court]**

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

28 210. California Civil Code § 52.3 provides:

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

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

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

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

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

3 214. Plaintiffs also seek declaratory, injunctive, and equitable relief. By this
4 complaint plaintiffs seek immediate enforcement of the law of the state and the California
5 Constitution. Plaintiffs also seek a declaration that the time to file government claims is
6 tolled and that there be a published procedure in which to file government claims.
7

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

10 216. Defendants' acts were willful and oppressive and justify an award of punitive
11 damages according to proof.
12

13 217. In addition plaintiffs request relief as prayed herein.

14 **FOURTEENTH CAUSE OF ACTION**
15 **Violation Cal. Civil Code § 53 (b)**
16 **(Brown, Harris)**

17 **Also Against Brown and Harris and in their Capacity as Temporary Public Trustees**
18 **[Pending Appointment By District Court]**

19 218. Plaintiffs refer to and incorporate, as though set forth herein in full, paragraphs
20 1 through 217 above.

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

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

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

1 impacted by restrictions, limitations, and access to title and ownership of property
2 including but not limited to violation of federal consent orders and judgments and
3 divestment of the constitutional protected property right in the power of appointment
4 and discretion of a named trustee or executor (in proceedings in which there did not exist
5 jurisdiction or notice, and/or the was a lack of mandated bonding requirement).
6

7 221. As a direct and proximate result of defendants' conduct, failure to enforce the
8 law and constitution, and control its employees, plaintiffs have suffered and will continue
9 to suffer damages including economic and compensatory, in an amount according to
10 proof.
11

12 222. Plaintiffs also seek declaratory, injunctive, and equitable relief. By this
13 complaint plaintiffs seek immediate enforcement of the law of the state and the California
14 Constitution.
15

16 223. Plaintiffs also seek statutory penalties under California Civil Code § 52 and
17 reasonable attorneys' fees and costs.
18

19 224. Defendants' acts were willful and oppressive and justify an award of punitive
20 damages according to proof.
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225. In addition plaintiffs request relief as prayed herein.
22

23 **FIFTEENTH CAUSE OF ACTION**
24 **Violation Cal. Civil Code § 54, 54.1, 54.3, 55**
25 **(Brown, Harris)**

26 **Also Against Brown and Harris and in their Capacity as Temporary Public Trustees**
27 **[Pending Appointment By District Court])**

28 226. 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

1 the general public to the full and free use of public places. Civil Code § 54.1 provides that
2 they shall also be provided to full and equal access as other members of the general public
3 to telephone facilities and other places to which the general public is invited (including
4 the courts). Any person who denies or interferes with admittance or to enjoyment of the
5 public facilities or interferes with the rights of an individual with a disability under is
6 liable damages.
7

8 228. The failure to provide accommodation and interference with telephonic access
9 to the plaintiffs legal representative as an accommodation for a physical disability in
10 order to gain access to the courtroom to represent the client plaintiffs violates Civil Code §
11 54 and 54.1.
12

13 229. As a direct and proximate result of defendants' conduct, failure to enforce the
14 law and constitution, and control its employees, plaintiffs have suffered and will continue
15 to suffer damages including economic and compensatory, in an amount according to
16 proof.
17

18 230. Plaintiffs also seek declaratory, injunctive, and equitable relief. By this
19 complaint plaintiffs seek immediate enforcement of the law of the state and the California
20 Constitution.
21

22 231. Plaintiffs also seek statutory penalties and reasonable attorneys' fees and costs.
23

24 232. Defendants' acts were willful and oppressive and justify an award of punitive
damages according to proof.
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26 233. In addition plaintiffs request relief as prayed herein.
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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.

NINETEENTH 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.

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

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

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

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

11 8. For all statutory penalties allowed by law;

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

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

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

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

21 b. Establish procedures for disclosure and written consent of
22 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 its 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

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

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

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

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

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

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

15 Dated: February 12, 2013

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EXHIBIT 1

Supplemental Judicial Benefits by Court
as of July 1, 2008

County-Funded Benefits		Court-Funded Benefits		Court- and County-Funded Benefits		No Supplemental Benefits	
Courts	Authorized Judgeships	Courts	Authorized Judgeships	Courts	Authorized Judgeships	Courts	Authorized Judgeships
FRESNO	44	ALAMEDA	69	CONTRA COSTA	38	ALPINE	2
LOS ANGELES	436	BUTTE	12	KERN	38	AMADOR	2
MENDOCINO	8	CALAVERAS	2	KINGS	8	COLUSA	2
MONTEREY	20	GLENN	2	MONO	2	DEL NORTE	3
RIVERSIDE	64	MARIPOSA	2	ORANGE	112	EL DORADO	6
SAN BERNARDINO	78	NAPA	6	SACRAMENTO	64	HUMBOLDT	7
SAN FRANCISCO	51	NEVADA	6	SONOMA	19	IMPERIAL	9
SAN MATEO	26	PLACER	12	YOLO	11	INYO	2
SANTA CLARA	79	SAN BENITO	2	8 courts		LAKE	4
TRINITY	2	SAN DIEGO	130	Judgeships		LASSEN	2
VENTURA	29	SAN JOAQUIN	32	Judgeships		MADERA	10
11 courts	837	SAN LUIS OBISPO	12	Judgeships		MARIN	10
SISKIYOU	4	Judgeships		Judgeships		MERCED	10
SOLANO	19	Judgeships		Judgeships		MODOC	2
TULARE	20	Judgeships		Judgeships		PLUMAS	2
TUOLUMNE	4	Judgeships		Judgeships		SANTA BARBARA	19
16 courts	334	SANTA CRUZ	10	Judgeships		SANTA CRUZ	10
SHASTA	11	Judgeships		Judgeships		SIERRA	2
SIERRA	2	Judgeships		Judgeships		STANISLAUS	22
SUTTER	5	Judgeships		Judgeships		TEHAMA	4
TEHAMA	4	Judgeships		Judgeships		YUBA	5
23 courts	151	Judgeships		Judgeships			

EXHIBIT 2

Government Claims Form

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

State of California

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

For Office Use Only
 Claim No.:**Is your claim complete?**

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

Claimant Information

1	Shabazz, Karim	2	Tel: 818 773 2408
	Last name	First Name	MI
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? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, give date of birth: <input type="text"/> MM <input type="text"/> DD <input type="text"/> YYYY		

Attorney or Representative Information

7	Ringgold, Nina R.	8	Tel: 818 773 2409
	Last name	First Name	MI
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? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
	State agency that issued the warrant: If NO, continue to Step 13.		
	Dollar amount of warrant:	Date of issue:	<input type="text"/> MM <input type="text"/> DD <input type="text"/> YYYY
	Proceed to Step 22.		
13	Date of Incident: See Attached		
	Was the incident more than six months ago? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, did you attach a separate sheet with an explanation for the late filing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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 <input type="checkbox"/> Limited civil case (\$25,000 or less) <input checked="" type="checkbox"/> 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? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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: <input type="text"/>		
	Are you the registered owner of the vehicle?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
	If NO, state name of owner:			
	Has a claim been filed with your insurance carrier, or will it be filed?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
	Have you received any payment for this damage or injury?	<input type="checkbox"/> Yes <input type="checkbox"/> 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).
	COPY 8.23.12

23	Signature of Claimant or Representative	Date
	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

**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). They 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		10. WHY DO YOU CLAIM COUNTY IS RESPONSIBLE? See Attached	
2. ADDRESS AND TELEPHONE NUMBER TO WHICH YOU DESIRE NOTICES OR COMMUNICATIONS TO BE SENT: <i>Law Off. Nina Ringgold.</i>		3. CLAIMANT'S BIRTHDATE:	
Street 9420 Reseda Blvd., Northridge, CA 91324	City, State Zip Code	NAME Elizabeth Grimes	DEPT.
HOME TELEPHONE: (818) 773.2409	BUSINESS TELEPHONE: (818) 773.2409	NAME See Attached	DEPT.
5. WHEN DID DAMAGE OR INJURY OCCUR?		12. WITNESSES TO DAMAGE OR INJURY: LIST ALL PERSONS AND ADDRESSES OF PERSONS KNOWN TO HAVE INFORMATION:	
DATE <i>Attached</i>	TIME <i>Attached</i>	NAME See Attached	PHONE
6. WHERE DID DAMAGE OR INJURY OCCUR?		13. LIST DAMAGES INCURRED TO DATE (and attach copies of receipts or repair estimate):	
Street See Attached	City, State Zip Code	NAME See Attached	PHONE
7. DESCRIBE IN DETAIL HOW DAMAGE OR INJURY OCCURRED: See Attached		ADDRESS	
		NAME See Attached	PHONE
		ADDRESS	
		NAME See Attached	PHONE
8. WERE POLICE OR PARAMEDICS CALLED? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		14. TOTAL DAMAGES TO DATE: \$ <u>Attached</u>	
9. IF PHYSICIAN WAS VISITED DUE TO INJURY, INCLUDE DATE OF FIRST VISIT AND PHYSICIAN'S NAME, ADDRESS AND PHONE NUMBER:		15. TOTAL ESTIMATED PROSPECTIVE DAMAGES: \$ <u>Attached</u>	
DATE OF FIRST VISIT	PHYSICIAN'S NAME		
PHYSICIAN'S ADDRESS	PHONE ()		

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

15. PRINT OR TYPE NAME

DATE

Nina Ringgold

8/23/12

X FORMS\CLAIMFORM2.DOC

COPY

Attorney for Claimant

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.*

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A judicial officer may not earn retirement service credit from a public teaching position while holding judicial office."

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"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."

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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



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

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



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.vcgb.ca.gov

STATE OF CALIFORNIA
 EDMUND G. BROWN JR., Governor

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.

Nina Ringgold, Esq.
Page 2

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 O. Yoshimura
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 prefilming 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 prefilming 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 prefilings order to file an application to vacate the prefilings 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 prefilings 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 prefilings 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 ~~on 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 or a permanently designated ~~justice or judge~~ of the same court to add on his or her behalf may exercise the authority provided in subdivisions (a) to (c) in the ~~same~~ order.

(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
Study J 1200STAFF MEMORANDUM
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