No.

In The

Supreme Court of the United States

Richard Lee Abrams

Petitioner

vs

Gavin Newsom, in his official capacity as Governor of the State of California

Respondent

On Petition for a Writ of Certiorari
To the Ninth Circuit Court of Appeals

APPENDIX FOR PETITION FOR WRIT OF CERTIORARI

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NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RICHARD LEE ABRAMS I, Plaintiff-Appellant, v. GAVIN NEWSOM, in his official capacity as Governor or the State of California, Defendant-Appellee.	No. 19-55297 D.C. No. 2:18-cv-06687-PSG-KS MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Philip S. Gutierrez, District Judge, Presiding

Submitted April 7, 2020**

Before: TASHIMA, BYBEE, and WATFORD, Circuit Judges.

Attorney Richard Lee Abrams I appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging constitutional claims. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal on the basis of Eleventh Amendment immunity. *Micomonaco v. Washington*, 45 F.3d

* 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).

316, 319 (9th Cir. 1995). We affirm.

The district court properly dismissed Abrams's action as barred by Eleventh Amendment immunity. *See Jackson v. Hayakawa*, 682 F.2d 1344, 1350 (9th Cir. 1982) ("Eleventh Amendment immunity extends to actions against state officers sued in their official capacities because such actions are, in essence, actions against the governmental entity."); *see also Nat'l Audubon Soc'y, Inc. v. Davis*, 307 F.3d 835, 847 (9th Cir. 2002) (prospective declaratory and injunctive relief claims lacking "requisite enforcement connection" to state officers barred by Eleventh Amendment).

The district court did not abuse its discretion by dismissing Abrams's first amended complaint without leave to amend because amendment would be futile. *See Bonin v. Calderon*, 59 F.3d 815, 845 (9th Cir. 1995) (setting forth standard of review and explaining that district court may deny leave to amend if amendment would be futile).

Abrams's motion for judicial notice (Docket Entry No. 8) is denied.

AFFIRMED.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

#34 (2/25 off)

CIVIL MINUTES - GENERAL

JS-6

Case No.	CV 18-6687 PSG (KSx)	Date	February 20, 2019
Title	Richard Lee Abrams v. Edmund G. Brown Jr., et al.		

Present: The Honorable	Philip S. Gutierrez, United States District Judge
Wendy Hernandez	Not Reported
Deputy Clerk	Court Reporter
Attorneys Present for Plaintiff(s):	Attorneys Present for Defendant(s):
Not Present	Not Present

Proceedings (In Chambers): The Court GRANTS Defendant's motion to dismiss

Before the Court is Defendant Governor Gavin Newsom's[1] ("Defendant") motion to dismiss Plaintiff Richard Lee Abrams's ("Plaintiff") first amended complaint. *See* Dkt. # 34 ("*Mot.*"). Plaintiff opposes the motion, *see* Dkt. # 35 ("*Opp.*"), and Defendant replied, *see* Dkt. # 37 ("*Reply*"). The Court finds the matter appropriate for decision without oral argument. *See* Fed. R. Civ. P. 78; L.R. 7-15. Having reviewed the moving papers, the Court **GRANTS** Defendant's motion with prejudice.

I. Background

Plaintiff Richard Lee Abrams, also known as Richard Scott MacNaughton, is an attorney and a member of the State Bar of California. *First Amended Complaint*, Dkt. # 33 ("*FAC*"), ¶ 7. He brings a single claim under 42 U.S.C. § 1983 against Defendant, alleging that "California has an official policy that it may use a person's religious [sic] and/or ethnicity against him." *Id.* ¶ 1. His claim arises from the events that ensued in a state court case captioned *Fix the City Inc. v. City of Los Angeles*. *See generally id.*

In July 2012, Plaintiff entered into a written attorney-client agreement with an organization called "SaveHollywood.Org aka People for Liveable Communities" ("SaveHollywood"). *Id.* ¶ 11. It appears that, at some point, another attorney, Frank P. Angel, became associated as counsel for SaveHollywood as well. *See id.* ¶ 13. In September 2014, a dispute arose as to who represented the organization—Plaintiff or Angel. *See id.* Initially, a Los

[1] This suit was initially against Edmund G. Brown, Jr., in his official capacity as the Governor of California. Since then, Governor Gavin Newsom, as Brown's successor, has been automatically substituted as Defendant in this matter. *See* Fed. R. Civ. P. 25(d).

Angeles Superior Court judge "confirmed" that Plaintiff represented SaveHollywood. *Id.* No one appealed the judge's order. *Id.* ¶ 14.

In December 2018, Plaintiff alleges that Angel and the presiding justice of the California Court of Appeal held a "secret ex pate communication" during which Angel falsely stated that Plaintiff was not SaveHollywood's attorney. *Id.* ¶ 15. Shortly thereafter, the California Court of Appeal ordered the parties to brief who represented the organization and ultimately held that Plaintiff was not authorized to represent SaveHollywood. *Id.* ¶¶ 16, 20; *see also Fix the City, Inc. v. City of Los Angeles (Fix the City I)*, No. B263181, 2016 WL 1452207 (Cal. Ct. App. Apr. 12, 2016).[2] Plaintiff was ordered not to file further pleadings for SaveHollywood and sanctions were imposed on him. *FAC* ¶ 29; *Fix the City I*, 2016 WL 1452207, at *8.

Angel later moved for additional sanctions. Plaintiff alleges that the trial judge initially issued a tentative ruling denying the motion. *FAC* ¶ 25. But at the hearing, Angel allegedly told the judge that Plaintiff was a "troublemaker Jew who would 'refuse Jesus Christ.'" *Id.* The judge and the attorney held a sidebar, excluding Plaintiff, during which Plaintiff allegedly overheard "a few words discussing the fact that he was really a troublemaker, and a Jew named Abrams." *Id.* After the sidebar, the judge changed his ruling and sanctioned Plaintiff $27,600. *Id.* The sanctions order was later affirmed by the California Court of Appeal. *Id.* ¶ 27; *Fix the City, Inc. v. City of Los Angeles (Fix the City II)*, No. B263181, 2017 WL 1366045, at *5 (Cal. Ct. App. Apr. 13, 2017).

In March 2018, the State Bar of California issued a Notice of Disciplinary Charges against Plaintiff. *FAC* ¶ 2; *Declaration of J. Zelidon-Zepeda*, Dkt. # 34-3, Ex. 3 ("*State Bar Charges*"). The charges pertain to Plaintiff's conduct in the *Fix the City* matter, both at the trial and appellate levels. *See generally State Bar Charges.* Plaintiff alleges that these charges were filed "to enforce [the] Discriminatory Policy." *FAC* ¶ 2.

[2] Defendant requests judicial notice of two California Court of Appeal decisions and a notice of disciplinary charges filed by the State Bar of California. *See Defendant's Request for Judicial Notice*, Dkt. # 34-2. Judicial notice of state court opinions is proper for establishing the fact that the state court made certain findings, but not for the truth of the underlying facts. *See Lee v. City of Los Angeles*, 250 F.3d 668, 689 (9th Cir. 2001). Likewise, state bar records of disciplinary hearings are appropriate for judicial notice. *See White v. Martel*, 601 F.3d 882, 885 (9th Cir. 2010) (per curiam). Therefore, the Court **GRANTS** judicial notice of these documents to establish the fact of filings but not for the truth of the underlying facts.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 18-6687 PSG (KSx) Date February 20, 2019

Title Richard Lee Abrams v. Edmund G. Brown Jr., et al.

On August 3, 2018, Plaintiff filed a complaint against Defendant, the State Bar of California, Michael G. Colantuono, in his official capacity as Chairman of the Board of Trustees of the State Bar, and Steven Moawad, in his official capacity as Chief Trial Counsel for the State Bar (collectively "the State Bar Defendants"). *See* Dkt. # 1. In addition to the § 1983 claim, Plaintiff brought causes of action for a request for a stay and a judicial determination that the California Court of Appeal's order removing Plaintiff as SaveHollywood's attorney was void. *See generally id.* On September 10, 2018, the State Bar proceedings were stayed pending the outcome of this lawsuit. *FAC* ¶ 2. Because the stay satisfied Plaintiff's request, he dismissed the State Bar Defendants from the case, leaving only the Governor as the Defendant in this case. *See* Dkts. # 22–24. Plaintiff subsequently amended his complaint. *See FAC.*

The First Amended Complaint ("FAC") alleges that the aforementioned judicial rulings in *Fix the City* matter were attributable to a state-wide "Discriminatory Policy," which allows state judicial officers to "use the attorney's or litigant['s] religion and/or ethnicity against him when determining whether he/she can participate in a side bar and in the court's weighing the evidence which Jews or others who 'refuse Jesus Christ' offer during litigation or hearings." *FAC* ¶ 33. Plaintiff claims that this policy "is not limited to Jews," but generally permits judicial officers to invoke article VI, section 10 of the California Constitution "to discriminate against minorities and religions." *Id.* 2 n.1. Once this policy has been applied by judicial officers, Plaintiff alleges that "other state employees enforce the Discriminatory Policy either actively or by acquiescence." *Id.* ¶ 34.

Plaintiff asks the Court for an injunction against the purported Discriminatory Policy and to "set aside and nullify other orders, judgments, sanctions, etc[.] for which the void order(s) served as a basis for on-going actions against [Plaintiff.]" *Id.* 14:18–15; 15:5–8. Plaintiff further asks the Court to require the State of California to undertake an investigation of the Discriminatory Policy and propose ways to eradicate it. *Id.* 15:5–8. Lastly, Plaintiff asks for attorneys' fees and costs under 42 U.S.C. § 1988(b). *Id.* 15:13–14.

Defendant now moves to dismiss the complaint under Federal Rule of Civil Procedure 12(b)(1) for lack of subject matter jurisdiction and Rule 12(b)(6) for failure to state a claim upon which relief can be granted. *See generally id.*

II. Legal Standard

A. Rule 12(b)(1)

Federal courts have limited jurisdiction and therefore only possess power authorized by Article III of the United States Constitution and statutes enacted by Congress. *See Bender v. Williamsport Area Sch. Dist.*, 475 U.S. 534, 541 (1986). Thus, federal courts cannot consider claims for which they lack subject matter jurisdiction. *See Wang ex rel. United States v. FMC Corp.*, 975 F.2d 1412, 1415 (9th Cir. 1992).

Federal Rule of Civil Procedure 12(b)(1) provides for a party, by motion, to assert the defense of "lack of subject-matter jurisdiction." This defense may be raised at any time, and the Court is obligated to address the issue sua sponte. *See* Fed. R. Civ. P. 12(h)(1) (providing for waiver of certain defenses but excluding lack of subject matter jurisdiction); *Grupo Dataflux v. Atlas Global Grp.*, 541 U.S. 567, 571 (2004) ("Challenges to subject-matter jurisdiction can of course be raised at any time prior to final judgment."); *Moore v. Maricopa Cty. Sheriff's Office*, 657 F.3d 890, 894 (9th Cir. 2011) ("The Court is obligated to determine *sua sponte* whether it has subject matter jurisdiction."). The plaintiff bears the burden of establishing that subject matter jurisdiction exists. *See United States v. Orr Water Ditch Co.*, 600 F.3d 1152, 1157 (9th Cir. 2010). If the Court finds that it lacks subject matter jurisdiction at any time, it must dismiss the action. *See* Fed. R. Civ. P. 12(h)(3).

A Rule 12(b)(1) jurisdictional attack may be facial or factual. *See White v. Lee*, 227 F.3d 1214, 1242 (9th Cir. 2000). In a facial attack, the challenging party asserts that the allegations contained in a complaint are insufficient on their face to invoke federal jurisdiction. *See Safe Air for Everyone v. Meyer*, 373 F.3d 1035, 1039 (9th Cir. 2004). By contrast, in a factual attack, the challenger disputes the truth of the allegations that, by themselves, would otherwise invoke federal jurisdiction. *See id.*

B. Rule 12(b)(6)

To survive a motion to dismiss under Rule 12(b)(6), a complaint must "contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). In assessing the adequacy of the complaint, the court must accept all pleaded facts as true and construe them in the light most favorable to the plaintiff. *See Turner v. City & Cty. of S.F.*, 788 F.3d 1206, 1210 (9th Cir. 2015); *Cousins v. Lockyer*, 568 F.3d 1063, 1067 (9th Cir.

2009). The court then determines whether the complaint "allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Iqbal*, 556 U.S. at 678. However, "[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice." *Id.* Accordingly, "for a complaint to survive a motion to dismiss, the non-conclusory factual content, and reasonable inferences from that content, must be plausibly suggestive of a claim entitling the plaintiff to relief." *Moss v. U.S. Secret Serv.*, 572 F.3d 962, 969 (9th Cir. 2009) (internal quotation marks omitted).

III. Discussion

Defendant contends that Plaintiff's complaint should be dismissed on three grounds: (1) Plaintiff's allegations of a "Discriminatory Policy" are conclusory and insufficient as a matter of law; (2) Plaintiff's claims are barred by the *Rooker-Feldman* doctrine to the extent he challenges state court decisions; and (3) Plaintiff's claims are barred by the Eleventh Amendment. *See generally Mot.* Because the Court finds that the latter two arguments are dispositive, it does not reach the first issue.

A. The *Rooker-Feldman* Doctrine

In his FAC, Plaintiff asks the Court to declare that any orders that are based upon the California Court of Appeal's orders are derivative of the purported "Discriminatory Policy." *See FAC* 14:26–27. Therefore, he asks the Court to "set aside and nullify other orders, judgments, sanctions etc[.] for which the void order(s) served as a basis for on-going actions against [Plaintiff]." *Id.* 15:9–11.

Under the *Rooker-Feldman* doctrine, lower federal courts lack subject matter jurisdiction in "cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments." *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005). Here, the orders the FAC refers to were appealed through the state judicial system and therefore are not reviewable by this Court under this doctrine.

Plaintiff concedes that his claims are barred to the extent that they challenge state court decisions. *Opp.* 10:8–20. Instead, Plaintiff states, "Where the FAC inadvertently retains some words that the FAC is asking this district to overrule any of the state court decisions, those words may be stricken as superfluous." *Id.* 10 n.5. Therefore, the Court **GRANTS** Defendant's motion to dismiss to the extent that Plaintiff's FAC asks to overturn state court decisions.

B. Eleventh Amendment Immunity

To the extent that Plaintiff seeks declaratory or injunctive relief apart from his challenge to the state court rulings, his claim against Defendant is barred by sovereign immunity. The Eleventh Amendment provides: "The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State." U.S. Const. amend. XI. The Supreme Court has long held that the Eleventh Amendment extends to suits by citizens against their own States. *Bd. of Tr. of Univ. of Ala. v. Garrett*, 531 U.S. 356, 363 (2001). Therefore, nonconsenting states may not be sued by private individuals in federal court. *See id.*

Of course, Eleventh Amendment immunity does not "bar actions for prospective declaratory or injunctive relief against state officers in their official capacities for their alleged violations of federal law." *Coal. to Defend Affirmative Action v. Brown*, 674 F.3d 1128, 1133 (9th Cir. 2012) (citing *Ex parte Young*, 209 U.S. 123, 155–56 (1908)). In order for this exception to apply, the officer "must have some connection with the enforcement of the act, or else it is merely making him a party as a representative of the state, and thereby attempting to make the state a party." *Ex parte Young*, 209 U.S. at 157. Moreover, that connection "must be fairly direct; a generalized duty to enforce state law or general supervisory power over the persons responsible for enforcing the challenged provision will not subject an official to suit." *L.A. Cty. Bar Ass'n v. Eu*, 979 F.2d 697, 704 (9th Cir. 1992).

Here, Plaintiff brings this suit against the Governor in his official capacity "for an order that Defendant California and all its subdivisions and agencies and departments cease and desist and repudiate the Discriminatory Policy." *FAC* ¶ 8. However, his FAC lacks any factual allegations from which the court could plausibly conclude that Defendant has a "fairly direct" connection with the actions Plaintiff complains of. For example, Plaintiff does not allege that then-Governor Brown played any role in creating or enforcing the purported Discriminatory Policy. Although Plaintiff claims in his opposition that "the Governor has other means such as directing agencies not to rely on such cases and that agencies and personnel should not interpret Art VI Sec 10 [of the California Constitution] in the way that [the judicial officers] have done," *Opp.* 10:17–20, this is no different from Defendant's general duty to enforce the law, which is not a sufficient ground for stripping his immunity. Therefore, without any "fairly direct" connection between Defendant and the enforcement of the purported unconstitutional Discriminatory Policy, the Court finds that Defendant is named as a surrogate for the State of California, and Plaintiff's claim is therefore barred by the state's Eleventh Amendment immunity.

Plaintiff's opposition brief emphasizes that state immunity does not excuse violations of constitutional rights. Yet, no one is disputing that this is the case. It is a lack of connection between the official sued and the enforcement of an unconstitutional policy that is the problem. Plaintiff claims that a governor is a proper defendant where "the state [] was engaged in the discriminatory policy," citing *Papasan v. Allain*, 478 U.S. 265 (1986). *Opp.* 12:17–18. However, *Papasan* did not address a governor's connection to the enforcement of the challenged law or lack thereof. Instead, the Court rejected the defendant's contention that the plaintiffs had failed to sue any state officials who could grant the relief requested, because the Secretary of State was a named defendant. *Papasan*, 478 U.S. at 282 n.14. The Court held that the suit was proper under *Ex parte Young* to the extent that the Secretary of State was acting in a manner that violated the constitution, because the Secretary of State was responsible for supervision of the administration of funding provisions, which were the subject of the suit. *Id.* Therefore, the plaintiffs in *Papasan* were able to demonstrate a "fairly direct" connection between the defendant and the unconstitutional practice.

In sum, the Court concludes that Plaintiff's claim is barred by Eleventh Amendment immunity because the FAC fails to show that Defendant has a connection with the enforcement of the purported Discriminatory Policy.

IV. Leave to Amend

Whether to grant leave to amend rests in the sound discretion of the trial court. *See Bonin v. Calderon*, 59 F.3d 815, 845 (9th Cir. 1995). Courts consider whether leave to amend would cause undue delay or prejudice to the opposing party, and whether granting leave to amend would be futile. *See Sisseton-Wahpeton Sioux Tribe v. United States*, 90 F.3d 351, 355 (9th Cir. 1996). Generally, dismissal without leave to amend is improper "unless it is clear that the complaint could not be saved by any amendment." *Jackson v. Carey*, 353 F.3d 750, 758 (9th Cir. 2003).

Here, the Court finds that Plaintiff's claims against Defendant are barred by the *Rooker-Feldman* doctrine and the Eleventh Amendment. Given that the only connection between Defendant and the actions Plaintiff complains of is Defendant's general duty to enforce and uphold the law, the Court does not believe that Plaintiff would be able to add any allegations to the FAC that would surmount Defendant's sovereign immunity. Because the Court finds that amendment would be futile, it **DENIES** leave to amend.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 18-6687 PSG (KSx) Date February 20, 2019

Title Richard Lee Abrams v. Edmund G. Brown Jr., et al.

V. Conclusion

For the foregoing reasons, the Court **GRANTS** Defendant's motion to dismiss with prejudice. This order closes the case.

IT IS SO ORDERED.

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UNITED STATES DISTRICT COURT
FOR CENTRAL DISTRICT OF STATE OF CALIFORNIA

RICHARD LEE ABRAMS, Plaintiff, vs. EDMUND G BROWN JR. in his official capacity as Governor of the STATE OF CALIFORNIA, Defendant.	Case # 2:18-cv-06687(PSG)(KSx) FIRST AMENDED COMPLAINT FOR CIVIL RIGHTS VIOLATIONS UNDER 42 U.S.C. § 1983, and INJUNCTIVE RELIEF, ATTORNEY FEES & COSTS COUNT I 1983 Civil Rights Violations

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SYNOPSIS OF THIS ACTION

1. California has an official policy that it may use a person's religious and/or ethnicity against him. As the facts revealed the State has a policy which may deny Jews and others who "refuse Jesus Christ" access to hearings; they may disregard and alter evidence and testimony offer by Jews. Thereafter state agencies such as the Commission on Judicial Performance, the State Bar Association, various district attorneys and other state agencies, crime labora-

tories will go along with the Discriminatory Policy, whether they act under the color of state law or for personal benefit. This can be termed the Cover-up Phase which is a common institutional response to wrongdoing by people with power positions within the business, agency, institution or government. [The original wrongdoing plus the cover-up are hereinafter referred to as The Discriminatory Policy] [1] This complaint challenges that state policy as contrary to 42 USC § 1983. Although policy was thrust upon the state by the conduct of certain state court judges or by private persons seeking special favors from government personnel, the origin of the policy is not relevant to its discriminatory nature.

2. Because the California State Bar had proposed serious sanctions against Attorney Abrams-MacNaughton, Case # 16-O-13106, to enforce this Discriminatory Policy, State Bar Judge Donald Miles' stayed the State Bar proceedings to that the state bar respondent, Plaintiff herein, could challenge the underlying policy. After this case was filed and served. Judge Donald Miles' noticed a Status Conference on September 10, 2108 where he stayed the state bar proceedings until the conclusion of the federal litigation. As Judge Miles' stay order satisfied Plaintiff's request, on October 17, 2018 Plaintiff dismissed the State Bar defendants from this case.

3. There is a judicial conundrum in that part of the untoward extra-judicial behavior of some state court judges which formed this policy was with-

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[1] Plaintiff is informed and believes that the Discriminatory Policy is not limited to Jews, but in general application it permits judges and justice to invoke the Calif Const. art VI, § 10 to discriminate against minorities and religions as a judicial officer chooses. The Discriminatory Policy, however, came to light when Attorney Frank Angel alerted Judge John Torribio that Attorney MacNaughton was actually a Jew named Abrams who would "refuse Jesus Christ." After learning that MacNaughton was Jewish, Judge Torribio altered the evidence and then changed his tentative ruling to be against Abrams-MacNaughton.

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out jurisdiction. The legal impact of the judicial action's being without jurisdiction is that it places the court's behavior outside the bounds of the court system, yet it remains "under the color of law." This federal court is not asked to overrule the state court cases which follow the Discriminatory Policy, but rather this court's attention is directed at the policy itself. Notwithstanding support for the Discriminatory Policy among some personnel within the State Bar organization, Judge Donald Miles' successive stays were determinative of the State Bar's official position not to proceed on the basis of the Discriminatory Policy.

4. The prior factual allegation in the original complaint are true, but many are not relevant to the Discriminatory Policy itself. There is an alternate route to challenge the actual state court decisions, which are void for lack of jurisdiction and lack of due process, but that alternate action would have to be present to the United States Supreme Court.

JURISDICTION and VENUE

5. The federal courts have jurisdiction of this action under 28 U.S. Code § 1331, (Federal question), 28 U.S. Code § 1343(a)(3), 42 U.S. Code § 1988(b), 42 U.S. Code § 1983, and the 14th Amendment due to the State's Discriminatory Policy as herein described. Jurisdiction over State of California Courts extends to claims for prospective injunctive relief.

6. Venue is in the Central District Court for the State of California as all the actions occurred within the City of Los Angeles, State of California. Plaintiff had a property right in his attorney-client contract with his client Save-Hollywood.Org aka People for Livable Communities, an unincorporated association. 28 U.S. Code § 1391 and said contract was entered into in Los Angeles, California.

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9. Defendants DOES 1 THROUGH 10's identities and/or capacities are unknown at this time and shall be added as named defendants if and when their identities and roles are ascertained.

10. In doing each act herein alleged and in not doing each omissions herein alleged, each defendant was and is acting as the servant, agent and employee of each remaining defendant. Defendants, and each of them, acted under color of state law and their conduct deprived the plaintiff of his rights, privileges, and immunities secured by the US Constitution and laws of the United States, and that such deprivation occurred without due process of law.

FACTUAL SITUATION WHERE THE DISCRIMINATORY POLICY WAS APPLIED TO PLAINTIFF

11. On July 18, 2012, Abrams-MacNaughton entered into a written attorney-client agreement with his client, "SaveHollywood.Org aka People for Livable Communities," an unincorporated association [SaveHywd]. SaveHywd never terminated that attorney-client contract but on several occasions, Save-Hywd has affirmed that attorney-client contract. [Hereinafter The Mac Naughton Attorney Client Contract]

12. The SaveHywd case, for which Abrams-MacNaughton was retained, is on-going as it is a CEQA case which is awaiting "returns" by Defendant-Respondent City of Los Angeles which is not a party to this dispute, nor are the related cases at the trial court level (i.e. La Mirada and Fix The City) part of this dispute.

13. On September 18 and 24, 2014 in the case of SaveHywd & HELP etc. Los Angeles Superior Court case Number BS 138370, Judge Allan Goodman confirmed that Abrams-MacNaughton was the attorney for SaveHywd and that attorney Frank Angel was not. On September 18, 2014, after Judge Good-

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man reiterated that Frank Angel was not the attorney for SaveHywd but was the attorney for a non-party corporation, Frank Angel told Judge Goodman that he was SaveHywd's attorney and asked Judge Goodman to make an order to that effect. In response to Frank Angel's oral motion, Judge Goodman asked for briefing and set September 24, 2014 for a hearing date to whether to remove Attorney MacNaughton as SaveHywd's attorney. On September 24, 2014, Judge Goodman chose not to change his determination that Frank Angel was not Save-Hywd's attorney but affirmed that Attorney MacNaughton was still SaveHywd's attorney. Judge Goodman also advised Frank Angel that the Save-Hywd case was not the proper forum for his motion.

14. Neither Frank Angel nor anyone else appealed Judge Goodman's September 24, 2014 minute order nor did anyone seek any other type of appellate review.

15. On December 18, 2014 the law office of Frank Angel and Justice Paul Turner's Office, Division Five of California Second District Court of Appeals, had a secret ex parte communication wherein Frank Angel's office falsely stated that Abrams-MacNaughton was not SaveHywd's attorney but MacNaughton would not cease to act as SaveHywd's attorney, i.e. "I explained that Mr. MacNaughton refused to accept that he had been terminated by SaveHollywood.Org and that a motion for sanctions had been filed against him in the trial court," Jessica Cheng May 29, 2015 declaration. This false representation was unduly prejudicial to Abrams-MacNaughton and it exceeded the scope of any permitted ex parte communication for scheduling. When the prejudicial statement was made during the ex parte communication, the offices of Frank Angel knew that its representation was the opposite of what Judge Goodman had determined three months earlier. Neither Justice Turner nor Frank Angel disclosed this secret ex parte communication until long after the Supreme Court had denied cert. (The Cheng May 29, 2015 declaration came to light as an attachment to a letter which Frank Angel submitted to the appellate

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court on or about September 2015.) Similarly, it was years before Plaintiff realized that the action was pursuant to the Discriminatory Policy which had not yet ben disclosed.

16. On December 19, 2014, Judge Turner issued an order that the client SaveHywd without its attorney identify its attorney. The order stated: "A dispute exists as to who represents plaintiff, SAVEHOLLYWOOD.ORG. ¶ Within 5 days of the filing date of this order, plaintiff is file declarations identifying who it wishes to act as its counsel." Plaintiff is informed, believes and thereupon alleges that this order was not a proper judicial function but rather was part of Justice Turner's personal implementation of the Discriminatory Policy against Abrams-MacNaughton.

17. When Ziggy Kruse who was a member of SaveHywd's Legal Committee telephoned Division 5 for clarification, Justice Turner's clerk told her to look at the order, i.e. it was direct to the client and not to its attorney, and that Attorney MacNaughton was to file nothing. In brief, Attorney MacNaughton was expressly excluded from the December 19, 2014 order. The clerk advised Ms. Kruse that the client itself was to file only a couple sentences limited to identifying its attorney. When Ms. Kruse objected, the court clerk assured her that if two different attorneys were identified, Justice Turner would seek more information. Justice Turner's December 19, 2014 order excluded Abrams-MacNaughton in that it was directed to his client and he was advised to file nothing. The order also said nothing about removing any attorney.

18. Because Justice Turner's December 19, 2014 order only pertained to the client and excluded Abrams-MacNaughton, the court gained no personal jurisdiction over Abrams-MacNaughton. Abrams-MacNaughton followed the Justice Turner's order and filed nothing, but his client acting though Robert Blue who was a founder of SaveHywd and a member of its Legal Committee, did submit a declaration identifying Attorney MacNaughton as SaveHywd's

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22. Although SaveHywd tried to appeal the removal of its attorney, Justice Turner would not accept their papers which SaveHywd itself had filed, despite the fact Justice Turner's December 19, 2014 order said that SaveHywd should file by itself without its attorney. When SaveHywd refiled its appeal with its Attorneys Richard MacNaughton and Attorney Edward Pilot (whose presence as one of SaveHywd's attorneys of record Justice Turner had ignored), Justice Turner determined the validity of his own putative orders and when SaveHywd petitioned the Supreme Court, it allowed the Discriminatory Policy to continue.

23. In 2014 and early 2015, SaveHywd attempted to object to Justice Turner's order but to no avail, since Justice Turner blocked any objections. As SaveHywd and HELP had jointly moved to be dismissed as wrongfully joined in the La Mirada case at the appellate level and Justice Turner had granted HELP's request and Justice Turner had not tried to actually apply the December 26, 2014 order to the trial court, there was no rational reason for SaveHywd or Attorney MacNaughton to pursue a practically moot issue.

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24. Defendant State Bar filed charges against Abrams-Mac Naughton due to his claim that he is SaveHywd's attorney. State Bar Judge Donald Miles, however, would not enforce the Discriminatory Policy, but due to the State Bar's case of Collins he lacked authority to declare the Discriminatory Policy void. Instead, Judge Miles issued stay orders (abatement) pending the final outcome of the federal action.

25. On February 9, 2015 Judge John Torribio issued a tentative ruling, which ruled in favor of Abrams-MacNaughton and denied Frank Angel's Code of Civil Procedure § 128.7 motion for monetary sanctions. The next day on February 10, 2015 during oral argument, Frank Angel told Judge Torribio that Attorney MacNaughton was a troublemaker Jew who would "refuse Jesus Christ" and then Frank Angel rushed to the bench where he and Judge Torribio

had a sidebar which excluded Attorney Mac Naughton over his repeated objections, but Attorney MacNaughton heard a few words discussing the fact that he was really a troublemaker, and a Jew named Abrams. After that sidebar about Attorney MacNaughton's being a Jew, Judge Torribio changed his ruling and granted Frank Angel's motion and sanctioned Attorney MacNaughton $27,600.00 plus costs.

26. On May 14, 2015 without denying any of the facts of his side bar with Frank Angel over Abrams-MacNaughton's Jewish heritage, Judge Torribio denied Petitioner Hollywoodians Encouraging Logical Planning's [HELP's] motion to disqualify Judge Torribio on the grounds of bias. Abrams-Mac Naughton was also the attorney for co-petitioner HELP and Judge Torribio was excluding HELP from the post judgment CEQA notices and hearings. In his Strike Order to HELP's Motion to Disqualify, Judge Torribio did not dispute any of the facts nor did he make any statement that an attorney's Jewish heritage should not be inserted into a judicial proceeding, [4] but rather he asserted that he had a state constitutional right, Art VI, Sec 10, stating "The court may make any comment on the evidence and the testimony and credibility of any witness as in its opinion is necessary for the proper determination of the cause." "Comment on evidence" was an oblique reference to Frank Angel's and Judge Torribio's side bar conference that Attorney MacNaughton was a troublemaker Jew who would refuse Jesus Christ. In line with his assertion of a state constitutional right extending to "evidence, testimony, and credence of any witness," Judge Torribio's March 9, 2015 decision had also altered the evidence which Abrams-MacNaughton had offered in opposition to Frank Angel's CCP, § 128.7 Motion. For example, in the Frank Angel C.C.P. § 128.7 Motion before Judge Torribio, Abrams-MacNaughton produced The MacNaughton Attorney Client Contract whereby SaveHywd had retained him and not Frank Angel, but Judge Torribio said that it was

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[4] Judge Torribio May 14, 2015 verification contained this statement which ignored the actual exchange in which he participated. "I am not prejudiced or biased against or in favor of any party to this proceeding or their counsel."

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Hollywood, California 90068

an Undisputed Fact that The MacNaughton Attorney Client Contract had hired Frank Angel. Judge Torribio also said it was an undisputed fact that Ziggy Kruse, a member of SaveHywd, had stated that Frank Angel was SaveHywd's CEQA attorney which was false; she had stated the opposite. Judge Torribio also concealed the August 25, 2012 Frank Angel contract which showed that MacNaughton was the lead attorney and that Frank Angel was not authorized to participate in any appellate proceedings. Plaintiff is informed, believes and thereupon alleges that the aforesaid mischaracterization of evidence fall under the rubric of Judge Torribio's May 14, 2015 assertion of a state constitutional right: "The court may make any comment on the evidence and the testimony and credibility of any witness as in its opinion is necessary for the proper determination of the cause."

27. When Abrams-MacNaughton appealed Judge Torribio's Strike Order in the HELP case, on June 26, 2015 in appellate case #B 264397 Justice Turner sustained Judge Torribio's Order Striking the Disqualification, which Judge Torribio signed but did not author, based on trial court judges' state constitutional right including the use of religious criteria to governing their courtrooms. Judge Torribio's March 9, 2015 order had also been based on Justice Turner's prior December 26, 2014 void order removing Abrams-Mac Naugh-ton as SaveHywd's attorney.

28. When SaveHywd appealed Judge Torribio's March 9, 2015 decision, Justice Turner refused to allow Division 5 to hear the appeal on the grounds that Abrams-MacNaughton had been removed as SaveHywd's attorney (i.e. on the basis of the void December 26, 2014 order). When Justice Turner learned that SaveHywd had a co-counsel, Edward Pilot who is also Jewish, and he had actually been the signatory to the appeal, Justice Turner became irate and threatened Attorney Pilot with state bar disciplinary actions and heavy financial sanctions. Attorney Pilot withdrew as SaveHywd's attorney in face of the threats.

29. Thereafter, on April 12, 2016, Justice Turner issued a $9,000.00 in sanctions against Abrams-MacNaughton on the ground that he had to know that the

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December 26, 2014 order prevented him from acting as SaveHywd's attorney at the trial court level. Although Justice Turner styled his April 12, 2016 as based on a valid order, he knew the basis was the Discriminatory Policy which he, Judge Torribio and some other members of the judiciary and other state agencies impose on groups against whom they are prejudiced. The sanctions against Abrams-MacNaughton were, which the State Bar seeks to enforce, were a product of the Discriminatory Policy. The sanctions award was expressly made in favor of SaveHywd, and SaveHywd waived the sanctions and again SaveHywd fired Frank Angel, and SaveHywd affirmed that Abrams-Mac Naughton was its attorney. Nonetheless, the personal prejudices of Paul Turner, John Torribio, and others within the structure of Defendant California persisted in the enforcement of their Discriminatory Policy.

30. After December 26, 2014, SaveHywd and Abrams-MacNaughton made repeated requests that Justice Turner recuse himself from hearing any subsequent case wherein he wanted to use the December 26, 2014 order due to Justice Turner's personal involvement that the order had been void for lack of jurisdiction and hence outside the bounds of his judicial immunity. Under the general principles set forth in 28 USC § 455, Justice Turner had a serious conflict of interest of both appearance of impropriety and actual personal stake in outcome. Unlike a case where the trial court makes an order, Justice Turner acted like a court of original jurisdiction, decided an issue where he had no jurisdiction and then he presided over the appeal of his void order.

31. In assessing the Discriminatory Policy, the trier-of-fact may assess whether some or all the judicial actions were void as they were not a product of the California judicial process but they were due to the Discriminatory Policy which the State of California thereafter adopted and enforced against Plaintiff. Plaintiff is informed, believes and thereupon alleges that it is legally irrelevant whether the State of California adopted and enforced the policies innocently without knowing their discriminatory basis or whether other state officials knew what they were doing. The result was the State of California engaging in discriminatory behavior which deprived

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Plaintiff of his rights under 42 USC 1983

INJUNCTION -- REQUEST FOR A STAY

32. While some employees of the California State Bar attempted to enforce the Discriminatory Policy, State Bar Judge Donald Miles has stayed the State Bar proceeding pending the final outcome of this federal case. The prior request for a temporary stay in the original complaint was thus mooted and the State Bar was dismissed without prejudice.

33. Abrams-MacNaughton cannot be adequately compensated in damages for the harm to his mental and physical health and the financial drain which has forced into poverty in attempting to overcome the great medical, mental and financial burdens unless this court enjoins Discriminatory Policy. Nor, should Plaintiff or any other person to subjected to a judicial system or other branch of the State of California which provides that judges or those administrative roles may use the attorney's or litigants religion and/or ethnicity against him when determining whether he/she can participate in a side bar and in the court's weighing the evidence which Jews or others who "refuse Jesus Christ" offer during litigation or hearings. Plaintiff also seeks an injunction against the use and or enforcement of the Discriminatory Policy by any agency, department, subdivision, etc. of the State of California. Furthermore, Plaintiff requests that the Defendant California undertake an investigation of the Discriminatory Policy and that based upon the facts uncovered during the investigation that Defendant California devise ways to root out the Discriminatory Policy from its agencies and subsections in order to re-establish the rule of law.

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Hollywood, California 90068

3. That Abrams-MacNaughton has been deprived him of his civil rights under 42 USC 1983.

4. For a Jury Trial

5. That Defendant California undertake a investigation of the Discriminatory Policy and charge the fact finder to also ascertain proposed ways to root out the Discriminatory Policy from all State of California agencies and subsections.

6. For such other further and additional relief including not limited to set aside and nullify other orders, judgments, sanctions, etc for which the void order(s) served as a basis for on-going actions against Abrams-MacNaughton.

7. That Abrams-MacNaughton is entitled to attorneys fees and costs under 42 U.S.C. § 1988(b)) as may be allowed by statute or constitution.

Dated: Wednesday, December 19, 2018

Plaintiff in Pro Per

By *Richard Lee Abrams*

Richard Lee Abrams
Electronically signed

Richard Lee Abrams Esq.
1916 North Saint Andrews Place
Hollywood, California 90068

Proof of Service By US Mail and Email

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

I am reside in the County of Los Angeles, State of California and I am over the age of eighteen (18) years and I am not a party to this within action. My address is 7500 Laurel Canyon Boulevard, # 218, North Hollywood, California 91605

On December 19, 2018, I served the following documents as follows:

1. FIRST AMENDED COMPLAINT FOR CIVIL RIGHTS VIOLATIONS UNDER 42 U.S.C. § 1983, and INJUNCTIVE RELIEF, ATTORNEY FEES & COSTS

on all interested parties by placing a true and correct copy in **US mail** with postage fully prepare thereon and **by email:**

Jose A. Zelidon-Zepeda, Esq. Email: Jose.ZelidonZepeda@doj.ca.gov
Deputy Attorney General
455 Golden Gate Avenue, Suite 11000,
San Francisco, CA 94102-7004

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct. Executed at Los Angeles, California Wednesday, December 19, 2018

Michael Nicastro

Gmail

Richard MacNaughton <abramsrl@gmail.com>

Activity in Case 2:18-cv-06687-PSG-KS Richard Lee Abrams v. Edmund G Brown Jr. et al Amended Complaint/Petition

1 message

cacd_ecfmail@cacd.uscourts.gov <cacd_ecfmail@cacd.uscourts.gov> Wed, Dec 19, 2018 at 9:59 PM

To: ecfnef@cacd.uscourts.gov

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.
*****NOTE TO PUBLIC ACCESS USERS*** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.**

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

Notice of Electronic Filing

The following transaction was entered by Abrams, Richard on 12/19/2018 at 9:59 PM PST and filed on 12/19/2018

Case Name:	Richard Lee Abrams v. Edmund G Brown Jr. et al
Case Number:	2:18-cv-06687-PSG-KS
Filer:	Richard Lee Abrams
Document Number:	33

Docket Text:

first AMENDED COMPLAINT against defendant Edmund G. Brown, Jr amending Complaint (Attorney Civil Case Opening), [1], Amended Complaint/Petition[30], filed by Plaintiff Richard Lee Abrams(Abrams, Richard).

2:18-cv-06687-PSG-KS Notice has been electronically mailed to:

Jose A Zelidon-Zepeda   jose.zelidonzepeda@doj.ca.gov, maria.otanes@doj.ca.gov, MEI.THAI@doj.ca.gov

Richard L Abrams   abramsrl@gmail.com

2:18-cv-06687-PSG-KS Notice has been delivered by First Class U. S. Mail or by other means BY THE FILER to :

The following document(s) are associated with this transaction:

Document description: Main Document
Original filename:C:\fakepath\Abrams v Brown wo etc w PoS.pdf
Electronic document Stamp:
[STAMP cacdStamp_ID=1020290914 [Date=12/19/2018] [FileNumber=26811203-0] [b4b4d65b368f9820a29966e06a0a198e71870a898416b64e0c2a1876801029b240

3ceac5dda819f4f5c90df52ba42e448c46723c2002a020f3ab68965552993e]]

Court of Appeal, Second Appellate District, Division Five - No. B264397

S227630

IN THE SUPREME COURT OF CALIFORNIA

En Banc

HOLLYWOODIANS ENCOURAGING LOGICAL PLANNING, Petitioner,

v.

SUPERIOR COURT OF LOS ANGELES COUNTY, Respondent,

CITY OF LOS ANGELES, Real Party in Interest.

The petition for review is denied.

CANTIL-SAKAUYE
Chief Justice

STATE BAR COURT OF CALIFORNIA HEARING DEPARTMENT 845 S. Figueroa St., Los Angeles, CA 90017	FOR CLERK'S USE ONLY: 6/25/2020
In the Matter of: RICHARD SCOTT MACNAUGHTON (AKA RICHARD LEE ABRAMS) State Bar No. 77258.	Case No(s): 16-O-13106 MINUTE ORDER

ORDERS:

☒ **Motion of** ☒ **Deputy Trial Counsel;** ☐ Resp./Appl./Petit.; ☐ Court for: **STATE BAR'S MOTION IN LIMINE TO PRECLUDE ADMISSION OF ANY EVIDENCE OFFERED BY RESPONDENT CHALLENGING THE VALIDITY OF COURT ORDERS AT TRIAL; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF SUJITH DIVAKARAN**.

☐ No opposition ☒ **Granted** ☐ Denied

☐ Matter ☐ off calendar due to _____.

☐ continued to _____.

☐ Trial continued to _____ at _____.

☐ Briefs due: ☐ Deputy Trial Counsel _____. ☐ Respondent _____.

☐ Parties waive service of order.

☐ Other _____

IT IS SO ORDERED.

Dated: June 25, 2020

YVETTE D. ROLAND
Judge of the State Bar Court

CERTIFICATE OF ELECTRONIC SERVICE

[Rules Proc. of State Bar, interim rule 5.26.1; Code Civ. Proc., § 1013b, subds. (a)-(b)]

I, the undersigned, certify that I am a Court Specialist of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, on June 25, 2020, I electronically served a true copy of the following document(s):

MINUTE ORDER

by electronic transmission on that date to the following:

RICHARD S. MACNAUGHTON
MacNaughtonEsq@Gmail.com

CHRISTINA R. MITCHELL
christina.mitchell@calbar.ca.gov

I hereby certify that the foregoing is true and correct.

Date: June 25, 2020

Elizabeth Alvarez
Court Specialist
State Bar Court of California
845 S. Figueroa Street
Los Angeles, CA 90017
elizabeth.alvarez@calbar.ca.gov

Proof of Service By US Mail and Email

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

I am reside in the County of Los Angeles, State of California and I am over the age of eighteen (18) years and I am not a party to this within action. My address is 7500 Laurel Canyon Boulevard, # 218, North Hollywood, California 91605

On September 16, 2020 I served the following documents as follows:

1 PETITION FOR WRIT OF CERTIORARI and

2. APPENDIX TO PETITION FOR WRIT OF CERTIORARI

on all interested parties by email and **US mail** of paper copies on Jose A. Zelidon-Zepeda, Deputy Attorney General, 455 Golden Gate Avenue, Suite 11000, San Francisco, CA94102-7004 and **email** address to Jose.ZelidonZepeda@doj.ca.gov

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct. Executed at Los Angeles, California, Wednesday, September 16, 2020

Michael Nicastro

Michael Nicastro
electronically signed