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SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
Civil Division

Southwest District, Torrance Courthouse, Department B

20TRCV00564

**NIRA WOODS, DR. vs DEPARTMENT OF HOUSING AND
COMMUNITY DEVELOPEMENT**

September 28, 2020
4:07 PM

Judge: Honorable Gary Y. Tanaka
Judicial Assistant: J. Ahn
Courtroom Assistant: M. Fondon

CSR: None
ERM: None
Deputy Sheriff: None

APPEARANCES:

For Plaintiff(s): No Appearances

For Defendant(s): No Appearances

NATURE OF PROCEEDINGS: Court Order

Plaintiff's action names 20 Defendants. One of the named defendant is a court reporter assigned to Southwest District, Torrance Courthouse.

On September 28, 2020, Plaintiff filed an Ex Parte Application to Disqualify/Recuse City of Torrance, Office of the City Attorney from representing certain named Defendants in the Complaint, to be heard on September 29, 2020 before Judge Gary Tanaka in Department B of the Torrance Courthouse.

Pursuant to Code of Civil Procedure Section 170.1(a)(6)(A)(i), Judge Tanaka believes his recusal would further the interests of justice and therefore disqualifies himself from the case. At the direction of the Supervising Judge of Civil, Judge Samantha Jessner, the Court orders Case No. 20TRCV00564 transferred forthwith to the Central District Stanley Mosk Courthouse, Department 1, for reassignment.

The Court recuses itself on this case. One of named Defendant on the case is an employee of the Southwest District, Torrance Courthouse.

The case is ordered transferred to Judge Samantha Jessner in Department 1 at the Stanley Mosk Courthouse for reassignment purposes only.

All future hearings in this department are advanced to this date and taken off calendar.

Certificate of Mailing is attached.

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
Civil Division

Central District, Stanley Mosk Courthouse, Department 1

20TRCV00564

**NIRA WOODS, DR. vs DEPARTMENT OF HOUSING AND
COMMUNITY DEVELOPEMENT**

September 30, 2020

1:42 PM

Judge: Honorable Samantha Jessner
Judicial Assistant: A. Mchitarian
Courtroom Assistant: R. Innis

CSR: None
ERM: None
Deputy Sheriff: None

APPEARANCES:

For Plaintiff(s): No Appearances

For Defendant(s): No Appearances

NATURE OF PROCEEDINGS: Court Order Re Reassignment Pursuant to a Recusal

Good cause appearing and on order of the Court, the above matter is reassigned from Judge Gary Y. Tanaka in Department B, Torrance Courthouse, to Judge William D. Stewart in Department A, Burbank Courthouse. for all further proceedings.

If any appearing party has not yet exercised a preemptory challenge under 170.6 CCP, preemptory challenges by them to the newly assigned judge must be timely filed within the 15 day period specified in Section 170.6 CCP, with extensions of time pursuant to CCP 1013 if service is by mail. Previously non-appearing parties, if any, have a 15-day statutory period from first appearance to file a preemptory challenge (68616(1) Govt. Code).

Plaintiff is directed to give notice.

Certificate of Mailing is attached.

FILED
Superior Court of California
County of Los Angeles

OCT 08 2020

Sherri R. Carter, Executive Officer/Clerk

By R. Hernandez, Deputy
R. Hernandez

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DR. NIRA WOODS,

Plaintiff,

v.

DEPARTMENT OF HOUSING AND
COMMUNITY DEVELOPMENT, et al.,

Defendants

CASE NO. 20TRCV00564

ORDER STRIKING STATEMENT OF
DISQUALIFICATION FOR CAUSE BUT
GRANTING PEREMPTORY
CHALLENGE

On October 5, 2020 Plaintiff Dr. Nira Woods filed a pleading as a statement of disqualification for cause, in the alternative as a peremptory challenge motion, contending that the assigned judge is biased. The statement of disqualification is based upon the complaining party's opinion and dissatisfaction with the judge's rulings, which are claimed to violate the plaintiff's constitutional rights. Since neither a party's opinion nor the court's rulings are, as a matter of law, legal grounds for disqualification for cause, the statement of disqualification for cause demonstrates on its face no legal grounds for disqualification. It is stricken pursuant to Code Civ. Proc., § 170.4, subdivision (b).

However, as a peremptory challenge motion pursuant to Code of Civil Procedure section 170.6, the challenge is timely and accepted. The case is transferred to the Supervising Judge for reassignment.

1 A party's belief as to a judge's bias and prejudice is irrelevant and not controlling in a
 2 motion to disqualify for cause, as the test applied is an objective one. *United Farm Workers of*
 3 *America v. Superior Court* (1985) 170 Cal.App.3d 97, 104; *Leland Stanford Junior University*
 4 *v. Superior Court* (1985) 173 Cal.App.3d 403, 408 ("the litigants' necessarily partisan views [do]
 5 not provide the applicable frame of reference." [Brackets in original.]

6 Code Civ. Proc., § 170.3(c)(1) requires that the disqualification statement set forth "the
 7 facts constituting the grounds" for disqualification of the judge. Mere conclusions of the pleader
 8 are insufficient. *In re Morelli* (1970) 11 Cal.App.3d 819, 843; *Urias v. Harris Farms, Inc.*
 9 (1991) 234 Cal.App.3d 415, 426.

10 Rulings and findings do not constitute a valid basis for disqualification. As stated by the
 11 California Supreme Court in *People v. Guerra* (2006) 37 Cal.4th 1067, 1112, "a trial court's
 12 numerous rulings against a party--even when erroneous--do not establish a charge of judicial
 13 bias, especially when they are subject to review." (Overruled on other grounds.) *McEwen v.*
 14 *Occidental Life Ins. Co.* (1916) 172 Cal. 6, 11 (erroneous rulings, even when numerous and
 15 continuous, are not grounds for bias or prejudice, nor are "judges' expressions of opinion uttered
 16 in what he conceives to be the discharge of his judicial duty"). *See also*, Code of Civil Procedure
 17 section 170.2(b), which provides with certain exceptions not here applicable: "It is not grounds
 18 for disqualification that the judge ... [h]as in any capacity expressed a view on a legal or factual
 19 issue presented in the proceeding...." *Cf.*, Cal. Const., art. VI, § 10 which provides in pertinent
 20 part with regard to all courts: "The court may make such comment on the evidence and the
 21 testimony and credibility of any witness as in its opinion is necessary for the proper
 22 determination of the cause."

23 A party's remedy for an erroneous ruling is not a motion to disqualify, but rather review
 24 by appeal or writ. *See Ryan v. Welte* (1948) 87 Cal.App.2d 888, 893: "[A] wrong opinion on the
 25 law of a case does not disqualify a judge, nor is it evidence of bias or prejudice." Otherwise, the
 26 court said, "no judge who is reversed by a higher court on any ruling or decision would ever be
 27 qualified to proceed further in the particular case." The proper remedy, of course was an appeal
 28 from the erroneous ruling. *See* 2 Witkin, California Procedure (5th ed.), Courts, Nondisqualifying

1 Opinions, pp. 162-163.

3 **Conclusion**

4 Since the statement of disqualification is untimely, and on its face discloses no legal
5 grounds for disqualification, it is ordered stricken pursuant to Code Civ. Proc., § 170.4,
6 subdivision (b). The parties are reminded that this determination of the question of the
7 disqualification is not an appealable order and may be reviewed only by a writ of mandate from
8 the Court of Appeal sought within 10 days of notice to the parties of the decision. Code Civ.
9 Proc., § 170.3(d). In the event that a timely writ is sought, and an appellate court determines that
10 an answer should have been timely filed, such an answer is filed herewith. *See PBA, LLC v.*
11 *KPOD, Ltd.* (2003) 112 Cal.App.4th 965, 972; *accord, Fine v. Superior Court* (2002) 97
12 Cal.App.4th 651, 658.

13
14 GOOD CAUSE APPEARING THEREFORE, It is so ordered.

15 Date: Oct 8, 2020


16 Hon. William D. Stewart

Verified Answer of William D. Stewart

I, William D. Stewart, declare:

1. I am a Judge of the Superior Court and as such have been assigned to preside over this case.

2. I am not prejudiced or biased against or in favor of any party to this proceeding or their counsel.

3. All rulings made by me in this action have been based upon facts and arguments officially presented to me and upon my understanding of the law. My statements and rulings are set forth in the records and the files herein, which are the best evidence hereof. To the extent the moving party's statement of those rulings and statements are inconsistent therewith, they are denied.

4. All statements made by me and all actions taken by me in this proceeding have been done in furtherance of what I believe were my judicial duties.

5. I know of no facts or circumstances which would require my disqualification or recusal in this case.

I declare under penalty of perjury that the foregoing is true and correct and of my own personal knowledge, except as to those matters stated to be on my information and belief, and as to those matters, I believe them to be true. Executed this 8th day of October, 2020, at Burbank, California.

William D. Stewart
William D. Stewart