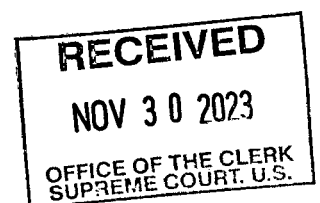


EXHIBIT A



Court of Appeal, Fifth Appellate District - No. F086624

S281800

IN THE SUPREME COURT OF CALIFORNIA

En Banc

SUPREME COURT
FILED

SAMREEN RIAZ, Petitioner,

SEP 27 2023

Jorge Navarrele Clerk

v.

SUPERIOR COURT OF TULARE COUNTY, Respondent;

Deputy

STATE OF CALIFORNIA et al., Real Parties in Interest.

The petition for review and application for stay are denied.

GUERRERO

Chief Justice

IN THE
COURT OF APPEAL OF THE STATE OF CALIFORNIA
IN AND FOR THE
FIFTH APPELLATE DISTRICT

SAMREEN RIAZ,

Petitioner,

v.

**THE SUPERIOR COURT OF TULARE
COUNTY,**

Respondent;

THE STATE OF CALIFORNIA et al.,

Real Party in Interest.


F086624

(Tulare Super. Ct. No. VCU298300)

ORDER

BY THE COURT:*

The "Petition for Writ of Mandamus," filed on August 1, 2023, is denied.


Poochigian, A.P.J.

* Before Poochigian, A.P.J., Franson, J. and Meehan, J.

FILED
TULARE COUNTY SUPERIOR COURT
VISALIA DIVISION

JUL 18 2023

STEPHANIE CAMERON, CLERK

BY: *[Signature]*

SUPERIOR COURT OF CALIFORNIA
COUNTY OF TULARE

SAMREEN RIAZ,

Plaintiff,

v.

THE STATE OF CALIFORNIA, et al.

Defendants

Case No.: VCU 298300

ORDER STRIKING STATEMENT OF
DISQUALIFICATION; IN THE
ALTERNATIVE, VERIFIED ANSWER OF
JUDGE BRET HILLMAN

I. INTRODUCTION

On July 14, 2023, Plaintiff Samreen Riaz filed an "Ex Parte Application for Motion to Disqualify Judge" ("Statement of Disqualification.")¹ Ms. Riaz generally asserts the Court is biased against her, or that a reasonable person would believe the Court is biased against her. (Code Civ. Proc., § 170.1.)

Code of Civil Procedure section 170.3(c)(1) requires that a statement of disqualification be personally served on the judge who is the subject of the disqualification or personally served upon the judge's clerk when the judge is in the courthouse. Indeed, pursuant to Code of Civil section 170.3(c)(3), the time for filing a response to a statement of disqualification does not start

¹ While Ms. Riaz frames her pleading as a motion, a statement of disqualification is not a motion and is not subject to law and motion rules. (*Urias v. Harris Farms, Inc.* (1991) 234 Cal.App.3d 415, 422.)

1 to run until the *later* of the filing of the statement of disqualification or the personal service of the
 2 statement of disqualification on the judge who is the subject of the disqualification. Here, Ms.
 3 Riaz did not personally serve the Statement of Disqualification pursuant to Code of Civil
 4 Procedure section 170.3(c)(1) on this Judge or the clerk in Department 7. It was served on a Court
 5 Manager at the Tulare County Clerk's Office on or about July 14, 2023, but the court will accept
 6 that as service on this Court.

7 Ms. Riaz's Statement of Disqualification fails to disclose facts which constitute legal
 8 grounds for disqualification. Where, as here, "a statement of disqualification is untimely filed or
 9 if on its face it discloses no legal grounds for disqualification, the trial judge against whom it was
 10 filed may order it stricken." (Code Civ. Proc., § 170.4, subd. (b); *Neblett v. Pacific Mutual Life*
 11 *Ins. Co.* (1943) 22 Cal.2d 393, 401.)

12 If a party believes a judge is required to disqualify themselves, the party shall file "a
 13 written verified statement" to which the judge shall respond. (Code Civ. Proc., §§ 170.3, subd.
 14 (c)(1), (c)(3); § 170.4, subd. (b).) The instant Statement of Disqualification on its face, discloses
 15 no legal grounds for disqualification, and is untimely, and therefore the Court hereby strikes it.
 16 (Code Civ. Proc., § 170.4, subd. (b).)²

17 18 **II. STANDARDS FOR DISQUALIFICATION PURSUANT TO CODE OF CIVIL 19 PROCEDURE SECTION 170.1**

20 California law requires that a judge decide any proceeding in which he or she is not
 21 disqualified. (Code Civ. Proc., § 170; See also Canons of Judicial Ethics, Canon 3(B)(1) ["A
 22 judge shall hear and decide all matters assigned to the judge except those in which he or she is
 23 disqualified."].)

24 Code of Civil Procedure section 170.1 states in part:

25 (a) A judge shall be disqualified if any one or more of the following are true:

26
27
28 ² At the same time Ms. Riaz filed the instant Statement of Disqualification, she filed a statement of
 disqualification under CCP 160.6 which the court denied as untimely.

1 (6)(A) For any reason:

2 (iii) A person aware of the facts might reasonably entertain a doubt that the
3 judge would be able to be impartial.

4 The California Supreme Court has stated that unless the grounds for disqualification are
5 those enumerated in the statute, the judge will not be disqualified. (*Patterson v. Police Judge's*
6 *Court* (1899) 123 Cal. 453, 455.) "Potential bias and prejudice must be clearly established by an
7 objective standard. [Citation.] Courts must apply with restraint statutes authorizing
8 disqualification of a judge due to bias. [citation.]" (*People v. Chatman* (2006) 38 Cal.4th 344,
9 363 (citations omitted).) In another case, the California Supreme Court affirmed the long-
10 standing rule that "[j]udicial responsibility does not require shrinking every time an advocate
11 asserts the objection a fair judge appears biased. The duty of a judge to sit where not
12 disqualified is equally as strong as the duty to not sit when disqualified." (*People v. Carter*
13 (2005) 36 Cal.4th 1215, 1243 [judge's professional association and casual social contact with
14 prosecutor does not require recusal], citing *United Farm Workers of America v. Superior Court*
15 (1985) 170 Cal.App.3d 97, 100; emphasis in original.)
16

17 The moving party has the burden to show that bias or prejudice exists on the part of the
18 judicial officer, and in the absence of proof the presumption is that no bias or prejudice actually
19 exists. (*Betz v. Pankow* (1993) 16 Cal.App.4th 919, 926; *Golish v. Feinstein* (1932) 123
20 Cal.App. 547, 549; see also *Estate of Buchman* (1955) 132 Cal.App.2d 81, 104.)
21

22
23
24 **III. THE STATEMENT OF DISQUALIFICATION ON ITS FACE SHOWS NO
LEGAL GROUNDS FOR DISQUALIFICATION**

25 Code of Civil Procedure section 170.1 provides the circumstances in which a judicial
26 officer shall be disqualified. A party's belief as to a judge's bias and prejudice is irrelevant and
27 not controlling in a motion to disqualify for cause, because the test applied is an objective one.
28

1 (Stanford University v. Superior Court (1985) 173 Cal.App.3d 403, 408 ["the litigants'
2 necessarily partisan views [do] not provide the applicable frame of reference." [Brackets in
3 original.]] When, as here, the statement of disqualification does not reveal any grounds for
4 disqualification on its face, a court may strike it. (Code Civ. Proc., §170.4, subd.(b); *Neblett v.*
5 *Pacific Mutual Life Ins. Co.* (1943) 22 Cal.2d 393, 401.)

6
7 Code of Civil Procedure section 170.3, subdivision (c)(1), requires that the
8 disqualification statement set forth "the facts constituting the grounds" for disqualification of
9 the judge. "[B]ias and prejudice are never implied and must be established by clear averments."
10 (*Woolley v. Superior Court* (1937) 19 Cal.App.2d 613, 626.) "Potential bias and prejudice must
11 clearly be established. (Citation.)" (*Roitz v. Caldwell Banker Residential Brokerage Co.* (1998)
12 62 Cal.App.4th 716, 724.) The party raising the issue of bias "has a heavy burden and must
13 'clearly' establish the appearance of bias." (*Wechsler v. Superior Court* (2014) 224
14 Cal.App.4th 384, 391.) Mere conclusions of the pleader are insufficient. (*In re Morelli* (1970)
15 11 Cal.App.3d 819, 843 (overruled on other grounds); *Urias v. Harris Farms, Inc.* (1991) 234
16 Cal.App.3d 415, 426.) A party seeking to show bias or prejudice must prove the same with
17 concrete facts and the statement of disqualification cannot be based upon information and
18 belief, hearsay, or other inadmissible evidence. (See *United Farm Workers of America, AFL-*
19 *CIO v. Superior Court* (1985) 170 Cal.App.3d 97, note 6 at 106 (disqualification cannot be
20 based upon hearsay or other inadmissible evidence). Cf., *Anastos v. Lee* (2004) 118 Cal.App.4th
21 1314, 1319 (declarations in support of a Code of Civil Procedure § 473 motion must include
22 proper foundation, i.e., personal knowledge.)

23
24
25
26 Ms. Riaz has not met her burden here. Ms. Riaz's Statement of Disqualification does not
27 set forth facts and is based upon hearsay and information and belief. For example, Ms. Riaz
28

1 bases her Statement of Disqualification upon unsupported allegations of bias, prejudice and
2 unethical conduct. The declaration references "many allegations involving Presiding Judge
3 Hillman declaring court witness mentally unfit," "Justice Hillman is already aware of additional
4 "conflicts of interest, bias and likely financial or additional interest, personal knowledge of facts
5 and potential relationship to party of attorney"...with the plaintiff," and "Judge Hillman Goes
6 (sic) out of his way to include case citation (sic) that has religious or racial, or national origin-
7 based discrimination before giving negative biased, erroneous judgment toward Plaintiff."
8 (Declaration in Support of Statement of Disqualification, p. 4, 6, 12) The Memorandum of
9 Points and Authorities mentions plaintiff being flagged by the Trump administration for
10 harassment, being stalked by "businesses that specialize in the destruction of human potential,"
11 and that prior counsel (also a defendant in this suit) informed plaintiff this judge handled a high
12 number of cases when the plaintiff was, "declared mentally unfit." (Memorandum of Points in
13 Support of Motion to Disqualify p. 4.) She alleges these matters without citing authority in the
14 record. These allegations improperly rely upon hearsay and information and belief. (See *United*
15 *Farm Workers of America, supra*, 170 Cal.App.3d at note 6 at 106.)³

16
17
18
19 Even if Ms. Riaz were able to provide proper evidentiary support for her allegations, the
20 Statement of Disqualification fails to demonstrate a basis for disqualification on its face because
21 a court's rulings and findings are not grounds for disqualification. As stated in *McEwen v.*
22 *Occidental Life Ins. Co.* (1916) 172 Cal. 6, findings based upon evidence and argument
23
24

25
26 ³ The Statement of Disqualification is further based upon references to other actions
27 handled by this judge. Disqualification of a judge may not be based upon "references to copious
28 transcripts without citation to specific excerpts..."). (*In re Morelli, supra*, 11 Cal.App.3d at
843.)

1 officially presented can almost never constitute a valid basis for disqualification. A judge's
2 decision to not accept a party's version of facts does not demonstrate bias or prejudice. (*Keating*
3 *v. Superior Court* (1995) 45 Cal.2d 440, 443-444.) A party's remedy for an erroneous ruling is
4 not a motion to disqualify, but rather review by appeal or writ. (*Id.* at 11.) As stated in *Liteky v.*
5 *United States* (1994) 510 U.S. 540, 555:

6
7 [J]udicial rulings alone almost never constitute valid basis for a bias or partiality
8 motion. (Citation.) In and of themselves ... they cannot possibly show reliance
9 upon an extrajudicial source; and can only in the rarest circumstances evidence
10 the degree of favoritism or antagonism required ... when no extrajudicial source
is involved. Almost invariably, they are proper grounds for appeal, not for
recusal.

11 Official judicial rulings, even if reversed on appeal, are not a valid basis for
12 disqualification. (*People v. Superior Court* (1996) 50 Cal.App.4th 1216, 1231 ["(M)ere judicial
13 error is not conclusive evidence of bias or grounds for disqualification, and this has been held
14 particularly true in cases of sentencing error, given the often-complex rules relating to the
15 subject"].) "[A] wrong opinion on the law of a case does not disqualify a judge, nor is it
16 evidence of bias or prejudice." (*Ryan v. Welle* (1948) 87 Cal.App.2d 888, 893. Otherwise, "no
17 judge who is reversed by a higher court on any ruling or decision would ever be qualified to
18 proceed further in the particular case." (*Ibid.*) Nor is it grounds for disqualification that a
19 judicial officer has expressed a view on a legal or factual issue presented in the proceeding.
20 (Code Civ. Proc. § 170.2(b).) (Plaintiff's declaration in support of motion to disqualify, p. 4-
21 19.) This challenge is similar to four challenges filed by plaintiff in December 2022 related to
22 other matters which were handled by this court. Ms. Riaz bases her Statement of
23 Disqualification upon allegations regarding the Court's purported conduct in these separate
24 cases:

- 25 1. In *Riaz v. County of Tulare, et al.* (case VCU289294), filed November 2021 the
26 Court acted with bias and prejudice by delaying the first hearing until March 2022
27 (Declaration in Support of Statement of Disqualification, p. 6);
28

- 1 2. In *Riaz v. County of Tulare, et al*, court staff uploaded documents that were
2 unreadable in order "to conceal the organized-stalking network running inside the
3 court...." (*Id.* p. 7.) Ms. Riaz informed the court, "but Judge Hillman was
4 indifferent and asked to discuss it with the court staff and mentioned he is able to
5 read it." (*Ibid.*)
- 6 3. The Court continued the trial several times in *Riaz v. Altura Centers for Health*
7 despite Ms. Riaz's request not to continue trial (*Id.* p. 8-9);
- 8 4. The Court showed bias in *Riaz v. Altura Centers for Health* "to declare the plaintiff
9 incompetent to take a stand on trial..." (*Ibid.*);
- 10 5. The Court made prejudiced, biased comments in August 2020, "that the plaintiff has
11 to goes thru More hoops [sic]..." (*Id.* at p. 10.) "Same vocabulary in writing used in
12 Aug. 2020 unlawful 5150 hold incidents by Kaweah hospital staff and Visalia police
13 department." (*Id.* at p. 10);
- 14 6. On September 29, 2022 during a hearing in *Riaz v. Family Healthcare Network, et*
15 *al.* (VCU288720), this Court intimidated plaintiff by stating, "'I will make sure you
16 will see a day in court," to express that he wants to see the plaintiff in court in a
17 defending position in a court for a pretextual reason." (*Id.* at p. 12);
- 18 7. "On many occasions, plaintiff [sic] motions such as (recent example) the Motion to
19 quash the subpoena in the Alturas case, and restraining order against police
20 harassment...were not potentially heard when the plaintiff filed in court for pre-
21 textual reasoning." (*Id.* at 14); and
- 22 8. In August 2021, the Court granted a stay in *Riaz v. Altura Centers for Health.* (*Id.* at
23 15.); and
- 24 9. "The Court made prejudiced, biased comments in August 2020" in an order striking
25 a prior statement of disqualification. (*Id.* at p. 18)

26 As set forth above, official rulings and the Court's expression of views are not bases for
27 disqualification and therefore the Statement of Disqualification is stricken on that basis.
28

1 Further, Ms. Riaz's assertion that a person aware of the facts would reasonably entertain
2 a doubt as to whether the court could be fair and impartial is conclusory and unfounded. Ms.
3 Riaz has not stated facts to demonstrate that a reasonable person would fairly entertain such a
4 doubt in this case.

5 The 'reasonable person' is not someone who is 'hypersensitive or unduly
6 suspicious,' but rather is a 'well-informed, thoughtful observer.' (Citation.)
7 '[T]he partisan litigant emotionally involved in the controversy underlying
8 the lawsuit is not the *disinterested objective observer* whose doubts
concerning the judge's impartiality provide the governing standard.'
(Citations.)

9 (Wechsler, *supra*, 224 Cal. App. 4th at 391.) Ms. Riaz has not alleged specific, credible facts to
10 demonstrate an objectively reasonable belief that the Court is biased.
11

12 Finally, Ms. Riaz states that she submitted a complaint to the California Commission on
13 Judicial Performance. The complaint appears to be substantially similar to the allegations made
14 in the Statement of Disqualification (Memorandum of Points and Authorities in Support of
15 Statement of Disqualification.) The fact that a party has filed a complaint against a judicial
16 officer is not, by itself, a basis for disqualification. (See, California Judges Association,
17 Judicial Ethics Update (April 2008; Code Civ. Proc., §170.)
18

19 Code of Civil Procedure section 170 states that it is the duty of the judge to hear matters
20 assigned to him or her. Indeed, a judicial officer has an *obligation* not to recuse where there
21 are no grounds for disqualification. (See *Briggs v. Superior Court* (2001) 87 Cal.App.4th 312,
22 319.) A Judge has a duty to preside over this case because no grounds for disqualification
23 exist. The Statement of Disqualification on its face discloses no legal grounds for
24 disqualification, and therefore it is ordered stricken pursuant to Code of Civil Procedure
25 section 170.4, subdivision (b).
26
27
28

1 IV. THE STATEMENT OF DISQUALIFICATION UNDER CCP §170.3 IS
2 UNTIMELY

3 Code of Civil Procedure section 170.3, subdivision (c) (1) requires that any statement of
4 disqualification "be presented at the earliest practical opportunity after discovery of the facts
5 constituting the ground for disqualification." (See also *People v. Sweet* (1937) 19 Cal.App.2d
6 392, 396; *Krebs v. Los Angeles R. Corp.* (1936) 7 Cal.2d 549, 553; *Eckert v. Superior Court*
7 (1999) 69 Cal.App.4th 262, 265.) While no specific time period is set forth in Code of Civil
8 Procedure section 170.3, subdivision (c), the statutory framework indicates that a potential
9 disqualification is meant to be resolved quickly. For example, a petition for writ of mandate
10 must be filed and served by a party within 10 days after service of written notice of entry of the
11 court's order determining the question of disqualification. (See Code Civ. Proc. § 170.3 subd.
12 (d).)

13 The requirement that grounds for disqualification must be stated at the earliest practical
14 opportunity is clearly designed to preclude a waste of scarce judicial resources. "[I]f a party is
15 aware of grounds for disqualification of a judge but waits until after a pending motion is
16 decided to present the statement of objection, the statement may be stricken as untimely."
17 (*Tri Counties Bank v. Superior Court* (2006) 167 Cal.App.4th 1332, 1338 ("*Tri Counties*
18 *Bank*"); *In re Steven O.* (1991) 229 Cal.App.3d 46, 55.) The court further stated that "when a
19 statement of objection is untimely filed, it is appropriate for the trial court to order it stricken.
20 (Citations.)" (*Tri Counties Bank, supra*, 167 Cal.App.4th at 1337; *see also, Krebs, supra*,
21 Cal.2d at 553. [A party loses its right to object to the qualification of the judge by failing to
22 timely file a statement of disqualification.]
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1 Here, Ms. Riaz bases her Statement of Disqualification upon several alleged events,
2 including events which took place in 2020, 2021, and March 2022. (Declaration in Support of
3 Statement of Disqualification, p. 4-; 19; Memorandum of Points and Authorities in Support of
4 Statement of Disqualification, p. 2-11.) A statement of disqualification based upon events which
5 purportedly took place many years ago, or even many months ago, is plainly untimely.
6
7 Untimely presentation is a basis for striking a statement of disqualification under Code of Civil
8 Procedure section 170.4, subdivision (b) and thus the Statement of Disqualification is stricken
9 as untimely.

10 **V. THE STATEMENT OF DISQUALIFICATION UNDER CCP §170.6 IS**
11 **UNTIMELY**
12

13
14 Code of Civil Procedure section 170.6 requires a party objecting to a judge to file an
15 "oral or written motion." Pursuant to Tulare County Rules of Court, Rule 201, "Any challenge
16 to a judge must be made within 15 days of the filing of the initial pleading and/or first
17 appearance pursuant to California Code of Civil Procedure (hereinafter CCP) section
18 170.6(a)(2) under the all-purpose assignment rule." The challenge was filed on July 14, 2023.
19 This case has been pending since May 15, 2023 and is the CCP §170.6 challenge was denied as
20 untimely on July 14, 2023.
21
22


23
24 **VI. CONCLUSION**

25 Because the Statement of Disqualification on its face discloses no legal grounds for
26 disqualification, it is ordered stricken pursuant to Code of Civil Procedure section 170.4.
27
28

1 The parties are reminded that this determination of the question of disqualification is not
2 an appealable order and may be reviewed only by a writ of mandate from the Court of Appeal
3 sought within 10 days of notice to the parties of the decision. (Code Civ. Proc., § 170.3(d).) In
4 the event that a timely writ petition is filed, and an appellate court determines that an answer
5 should have been timely filed, such an answer is filed herewith.
6

7
8 GOOD CAUSE APPEARING THEREFORE, it is so ordered.
9

10 Date: July 18, 2023
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13 Bret D. Hillman
14 Judge of the Superior Court
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1 VERIFIED ANSWER OF JUDGE BRET D. HILLMAN
2

3 I, Bret D. Hillman, do declare as follows:

4 1. I am a Judge of the Superior Court of California, County of Tulare ("Superior
5 Court"). I have been assigned to preside over the instant action. If called upon as a witness, I would
6 competently testify to the matters as stated herein.

7 2. On July 14, 2023, Plaintiff Samreen Riaz caused a statement of disqualification
8 ("Statement of Disqualification") to be filed in which she alleges that I am biased or that a
9 reasonable person would believe I am biased against her. I was not personally served with the
10 Statement of Disqualification.

11 3. I deny the claims made by Ms. Riaz in the Statement of Disqualification filed in
12 this case. I deny that any ground for disqualification exists in this case. I am not biased or
13 prejudiced against or in favor of Ms. Riaz. I am not biased or prejudiced against or in favor of
14 petitioner. I am not biased or prejudiced against or in favor of any party or attorney in this case.
15 I know of no reason why I cannot be fair and impartial.

16 4. All decisions and rulings made by me in this action, and in all actions over which
17 I preside, have been based upon facts and arguments officially presented to me, my
18 understanding of the law, and my experience in handling cases. My statements and rulings are
19 set forth in the records and in the files herein, which are the best evidence hereof. To the extent
20 the moving party's statements are inconsistent therewith, they are denied.

21 5. All statements made by me and all actions taken by me in these proceedings and
22 in every proceeding over which I have presided have been done in furtherance of what I believe
23 were my judicial duties. My decisions have been based upon the facts and competent evidence
24 officially provided to me and on the applicable law. I am not predisposed to rule in any particular
25 manner in the instant case.

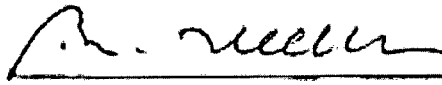
26 6. I know of no facts or circumstances which would require my disqualification or
27 recusal in this case.

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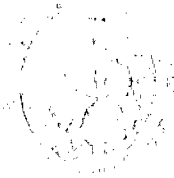
7. I do not believe that my recusal would serve the interests of justice.
I declare under penalty of perjury that the foregoing is true and correct.

Executed July 18, 2023 at Visalia, California.



Bret D. Hillman
Judge of the Superior Court





Superior Court
State of California

COUNTY OF TULARE

HELENE BOCCONI
PRESIDING JUDGE

SOUTHCOUNTY JUSTICE CENTER
1001 OLIVE AVE
PORTERVILLE, CA 93257
(559) 782-4700
(559) 782-4805 FAX

May 26, 2023

Samreen Riaz
1534 S. Manzanita Street
Visalia, CA 93292

Re: Case number VCU298300

Dear Ms. Riaz,

I am in receipt of your letter regarding Judge Bret Hillman presiding over a previous case as well as a new case where you are the Plaintiff. You have addressed some concerns regarding many areas. You have also filed a complaint with the California Commission on Judicial Performance.

Regarding your complaint to the California Commission on Judicial Performance, I am confident they will address your concerns. As to your desire to have a different judge hear your case, there are legal documents you may file to pursue your request. I cannot provide you legal advice but, you can use the Tulare County Law Library or perhaps consult with either an attorney or the Self-Help Resource Center at (559) 737-5500. Please be aware there are time limits within which you may file the necessary documents.

Please understand that every Superior Court Judge is entitled to exercise his or her independent judgement in each assigned case and I, as the court's current Presiding Judge, have no authority to question, challenge, review or reverse another judge's decision.

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If you believe the judge on your case has made an error of law or abused his/her lawful discretion in your case, you are free to appeal the decision to the Fifth District Court of Appeal in Fresno, CA. Please be aware there are time limits within which you may file an appeal.

Sincerely,



Juliet Boccone
Presiding Judge

DCM: rf

**Additional material
from this filing is
available in the
Clerk's Office.**