24-454

6/6/24

No. 23A682

IN THE

SUPREME COURT OF THE UNITED STATES

Arthur Lopez – Petitioner

vs.

Court of Appeal of California, Fourth Appellate District, Division Three, et al – Respondent(s)

(MUFG Holding Corporation et al., Real Party of Interest)

ON PETITION FOR A WRIT OF CERTIORARI TO

Supreme Court of California

Arthur Lopez, Self-Represented P.O. Box 13081

Newport Beach, CA 92658. 949.278.7793

QUESTION(S) PRESENTED

1.) Should Due Process of Law as mandated by the United States Constitution Fourteenth Amendment be afforded to self-represented litigant Plaintiff related to Civil Case against Defendant on the Matters of Infliction of Emotional Distress and Plaintiff's claims against Defendants to the United States Bankruptcy Court and Leave to Amend Complaint?

2.) Should self-represented litigant Plaintiff's Right to Appeal / review Civil Cases and Tolling Doctrines and Exceptions to res judicatas be afforded?

3.) Should Conflict of Interest discovered by Petitioner in regards to Presiding Justice Kathleen O'Leary, CA Court of Appeals 4th

District, Division Three (CCP 170.1-170.9) 2 and her spouse Kenneth Babcock, Director of Public Law Center being recipient of multi-thousand dollar's gifts / donations from MUFG Holding Corporation, et al. (and for which Presiding Justice O'Leary denied her own recusal) be sufficient to vacate dismissal judgements of this case?

LIST OF PARTIES

[ ] All parties do not appear in the caution of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows.

a. MUFG Union Bank, NA

b. Union BanCal Corporation

c. MUFG Americas Holding Corporation

d. MUFG Bank, LTD.

e. Union BanCal Mortgage Corporation

f. Mitsubishi UFJ Financial Group Inc.

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APPENDIX ZZ - Petitioner's former house - 11540 Hoxie Dr, Tustin, CA 92782 (current appraise value)

APPENDIX ZZZ - Disbarment of Attorney Amid Timothy Bahadori #242351 - July 9, 2022

TABLE OF AUTHORITIES CITED

STATUTES AND RULES

Memorandum of Points and Authorities Tolling Doctrines

1.) Richard v. CH2M Hill, Inc., 26 Cal. 4th 798 "Failure to reasonably accommodate disabled employee was subject to continuing violation... for purposes of the Statute of Limitations..." An employer's persisted failure to reasonably accommodate a disability, or to eliminate hostile work environment targeting a disabled employee, is a continuing violation for purposes of the statute of limitations..." 8

2.) Jay Brome vs. California Highway Patrol, 44 Cal. App. 5th 786, Court of Appeals, First District, Division Five (January 29th, 2020) "Whereby the

CA Highway Patrol knowingly permitted the intolerable conditions of harassment and discrimination against a patrol officer, ("Brome"), because of his sexual orientation was in violation of the Fair Employment and Housing Act and that he was constructively discharged..." Therefore, 1.) Triable issue of fact precluded summary judgment on application of equitable) Tolling Doctrine; 2.) Triable issue of fact precluded summary judgment or application of "Continuing Violations" Doctrine; and 3.) Triable issue of fact 9 precluded summary judgment on constructive discharge claim.

*Reversed and Remanded

3.) Aryeh v. Canon Business Solutions, Inc. 55 Cal 4th 1185 (January 24th, 2013) Supreme Court of California "The Supreme Court, Werdegar, J., held that 1.) Statute of Limitations for a Unfair

Competition Law (UCL) deceptive practices claim may be tolled under the Discovery Rule,..." 2.) Statute of Limitations for UCL claims against copier lessor was not tolled under Continuing Violation doctrine; but 3.) New UCL limitations period applied to each of lessor's alleged continuous unfair acts." Opinion, 111 Cal Rptr. 3d 211, superseded.

4.) Fox v. Ethicon Endo-Surgery, Inc., 35 Cal. 4th 797, May 9th, 2005 "The Supreme Court, Moreno, J., held that: 1.) "Patient (Plaintiff) was entitled to amend her complaint to allege facts explaining why she did not discover earlier factual basis for products liability claim, and 2.) accrual of products liability cause of action was delayed unless patient had reason to suspect that her injury resulted from

defective product;" disapproving Bristol-Myers Squible Co. v. Superior Court 32 Cal App 4th 959

5.) NBCUniversal Media, LLC et al v. The Superior Court of Los Angeles County, Resp. (Larry Montz, et al., Real Party in Interest), 11 225 Cal. App 4th 1222, CA Court of Appeals, Second District, Division Four The Court of Appeal, Mannela, J., held that: "Statute of Limitations began Jo Run No Later than the date of the initial network broadcast of the allegedly infringing show." (Discovery Rule postpones accrual of a cause faction until Plaintiff discovers, or has reason to discover, the cause of action).

6.) Neel v. Magana, Olney, Levy, Cathcart & Gelfand, et al, 6 Cal. 3d 176 Supreme Court of California, in Bank The Supreme Court, Tobriner, J., held that: "A cause of action for professional

malpractice against an attorney did not accrue until client knew or should have 12 known of material facts essential to show elements of cause of action," *Reversed.

7.) McDonald, et al v. Antelope Valley Comm. College Dist. 45 Cal 4th 88, Supreme Court of California No. S153964, October 27th, 2008 The Supreme Court, Wedegar, J., held that: 1.) "Community College internal grievance procedures could support equitable Tolling of the FEHA Statute of Limitation; 2.) FEHA preemption provisions do not foreclose equitable tolling of FEHA Statute of Limitations 3.) The FEHA Statute of Limitations may be equitably tolled 4.) Employee's act of filing FEHA proceeding while her internal grievance proceeding was still pending did not preclude equitable 13 tolling of FEHA Statute

of Limitations. 5.) judicial exhaustion of internal grievance procedure was not required.

8.) Wyatt, et al v. Union Mortgage Company, et al, 24 Cal. 3d 773, S.F. 23748 (August 10th, 1979) Supreme Court of California, in Bank "The Supreme Court, Bird, C.J. held that: 1.) Whether defendants, consisting of a mortgage loan broker and affiliated corporations, satisfied their judiciary obligations of disclosure in good faith toward Plaintiff and the Principals because, in response to questions about rate of interest, late payments, and size of balloon payments due at end of loan period, plaintiff received materially misleading and incomplete 14 information from defendants was question for jury; 2.) Whether individual defendants in their capacities as directors and officers of mortgage loan broker and affiliated

corporations, lured potential borrowers such as Plaintiff's into their officers through misleading "bait and switch" advertising was question for jury in determining civil conspiracy issue; 3.) Statute of Limitations did not begin to run on a part of claims until last overt act pursuant to conspiracy was completed, and 4.) award of $200,000, apportioned among eight corporate and individual defendants, was not excessive under circumstances.

17 - Continuing Violations Doctrine Including Tolling Authorities

1.) Amtrak v. Morgan, 536 U.S. 101 (June 2002) *United States Supreme Court – Continuing Violations Doct

2.) Aryeh v. Canon Business Solutions, Inc. 55 Cal. 4th 1185, January 24th, 2013 *Supreme Court of CA

3.) Free Freehand Corp. v. Adobe System, 852 F. Supp 2d 1171 (February 10th, 2012); U.S Dist. Court San Jose Division

4.) Klehr v. A.O. Smith Corp, 521 U.S> 179, 189 (1997) United States Supreme Court

5.) Baker v. Beech Air Craft Corp., 39 Cal App 3d 315 (1974) *Fraudulent Concealment

6.) Richard v. CH 2M Hill, Inc., 26 Cal 4th 798 (August 23, 2001) California Supreme Court – Continuing Violations Doct.

7.) National R.R. Passenger Corp. v. Abner Morgan, 536 U.S. 101, June 10th, 2002

8.) Brome v. Dept of the California Highway Patrol, 44 Cal. App 5th 786 California Court of Appeal, First Appellate District, Division Five, January 28th, 2020

9.) Herrera v. City of Espanola, 32 J. 4th 980 (April 27th, 2022) U.S. Court of Appeals, Tenth Circuit – Continuing Violations Doctrine: 1983 Litigant

10.) St. Francis Memorial Hospital v. State Department of Public Health, 9 Cal. 5th 17 710 Supreme Court of California *Equitable Tolling Applicable

11.) Jones v. Blanas, 393 F. 3d 918, United States Court of Appeals, Ninth Circuit *Civil Detainee was entitled to equitable tolling.

12.) Tankington v. California Unemployment Ins. Appeals Bd., 172 Cal. App. 4th 1494 (March 12th, 2009) "Finding cause of action not time barred; continuing violations doctrine. Equitable tolling applied.

13.) Richards v. CH2M Hill, Inc, 26 Cal 4th 798 Supreme Court of California, August 23rd, 2001. Failing to reasonably accommodate a disability is a continuing 18 violation for purpose of the statute of limitations.

14.) Addison v. State of California, 21 Cal. 3d 313 (1978) Supreme Court of California

15.) McDonald v. Antelope Valley Community College, 45 Cal 4th 88 (October 27th, 2008)

16.) Hames v. City of Trinidad, 924 F. 3d 1093 (May 15th, 2019) U.S. Court of Appeals, 10th Circuit.

17.) Daviton v. Columbia / HCA Healthcare Corp. 241 F. 3d 1131, U.S. Court of Appeals, Ninth Circuit

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

Opinions Below

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

[ ] unpublished

The opinion of the California Court of Appeals, 4th District, Division 3 court appears at Appendix B to the petition and is

[ ] unpublished

JURISDICTION

The date on which the highest state court decided my case was January 8, 2024. A copy of that decision appears on Appendix A.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including June 6, 2024 on January 24, 2024 in Application No. 23 A682.

The jurisdiction of this Court is invoked under 28 U.S.C. 1257 (a).

CONSTITUTIONAL AND STATUTORY

PROVISIONS INVOLVED

- United States Constitution Civil rights including 14th, 7th, 13th, 1st, 8th amendments
- 2nd/Alternative Claims / Doctrine of Tolling

Continuous Violations / Doctrine of Tolling

- United States Title 29, Section 794(9) 35.130(a)(b)(1)
- Americans with Disabilities Act of 1990 [35.178, 35.149] 42 U.S.C. 12,101 – 12213 (including 12102 (3) (A)
- California Code of Civil Procedure:
- CCP 525
- CCP 533
- CCP 404.5 25
- CCP 581d

- CCP 170 – 170.9
- CCP 904.1
- CCP 170.4
- CCP 906

STATEMENT OF THE CASE / FACTS –

Errors / Abuse of Discretion by the State Courts

Argument(s)

1) In error and abuse of discretion, lower court(s) failed to recognize tolling California statutes (CCP 352, 357) § tolling doctrines - Continuing Violations, 2nd / Alternative Claims, Delayed Discovery, Change of Law, Equitable Tolling Doctrines.

   See attached Table of Authorities in support

2) The appellate court(s) erred using August of 2012 as the last unlawful conduct by the defendant(s), in fact the defendant's implementation of Plaintiff's trade secrets into their auto financing branches' program was discovered circa 2015. Hence, Statute of

Limitations that may have been applicable would be tolled relative to the circa 2015 discovery.

3) The State court(s) erred failing to recognize California Tolling Statute, CCP 352 + 357 *§* as applicable relative to any Statute of Limitations for this case as Plaintiff has been permanently disabled since December 22, 2015.

4) The State courts erred/abused their discretion in failing to disqualify presiding Justice Kathleen O'Leary in violation of CA statutes CCP 170.1 - 170.9, and even passing on her very own disqualification (CCP 170.4). Moreover, State Court Judge Glenn Salter erred/abused his discretion in failing to disqualify Judicial Officer and even passing

on his very own disqualification (CCP 170.1-170.9, including 170.4)

5) The State court erred/abused their discretion in failing to recognize transfer of venue statute due to not being able to have a fair trial in the current venue, CCP 397 (b) which is a defendant in a civil action and whereby defense counsel is a volunteer judge for the same Superior Court venue.

6) The State courts abused / erred in failing to recognize the fraudulent schemes that derailed the first state action in 2012-2013 given defense counsel is/was volunteer judge for the same trial court venue and attorneys for Plaintiff practiced law in the same trial court venue and offered no opposition or amendments related to claims against Bank

in the #11-BK-25308 Bankruptcy Case, for which they represented as counsel, in opposition to defendant's Motion to Dismiss case #30-2012-00565803 (See Appendix ZZZ - Disbarred atty Amid Bahadori)

7) State courts erred / abused their discretion by dismissing cases depriving Litigation and Jury Trial without Leave to Amend Complaint.

STATEMENT OF THE CASE

Most honorable Supreme Court of the United States this case arises from the Defendants, MUFG Union Bank premeditated, systematic, scheme of Mortgage Fraud Trade Secret Theft; Antitrust business practice(s); deceit; trickery; Infliction of Emotional Distress; Discrimination (E.C.O.A.) and (Fair Housing Act Title VIII) on the basis of Plaintiff's Mexican Heritage / Hispanic / Latino Race, Catholic – Christian Religion – Religious Beliefs, Familial Status, and Male Gender; Espionage by planting an executive division staff member as a Spy under the false pretense of being a customer of new start up auto finance company "Liberty Credit Corporation"; Breach of Contract, Breach of Trust; Peonage and Collusion among other unlawful and Unfair Business Practices,

Inflicting Emotional Distress upon Arthur Lopez causing loss his home, his business and family. Plaintiff, being a father of four lovely minor children and having been in the subprime auto finance industry since 1987 was targeted by the defendant's unscrupulous executives for their unlawful schemes to defraud of his assets and trade secrets.

See Appendix D, E, F

Please note the affixed Post-It Notes on the United States Department of Justice returned copy of Plaintiff's November 16, 2011, correspondence submitted to several Federal and State Governmental Divisions including the U.S. DOJ whereby they labeled the violations described in Plaintiff's letter as "Fraud + Fair Housing Act - Title VIII" and "E.C.O.A." (for Equal Credit Opportunity Act"), by the U.S. DOJ, Appendix D.

This correspondence not only referred to the Defendants' failing to honor their promises for capital via home mortgage which offered substantial available equity relative to their promoted 80% LTV + HELOC programs. The defendants' breach occurred repeatedly from late 2008 through 2011/12 and remains. The planting of an executive office spy occurred in 2009 via a 36-

month security agreement that was signed under false pretense but was not discovered until some time later; the Theft of Trade Secret(s) occurred from the onset upon delivery of the Required Business Plan in October of 2008 approximately and continued through "Liberty Credit Corp's." Operational period of approx. 4-5 years and in perpetuity and discovered 2015. However, the harm from the Defendants Misappropriation of these Trade Secrets continues to this day through the Defendants' vast global network including covering over Nine U.S. states. These include loans with acquisition fees, five yr. terms, over 10% A.P.R., monthly payments, and credit history based without a set F.I.C.O. score as a prerequisite. All of these components were shared with the defendants under strict confidentiality within Business Plan

which included financial information related to subprime auto loan ratios and the fee schedules, aside from the A.P.R., required to compensate for the anticipated default / attrition. This data is not public information and was never authorized by Plaintiff to incorporate into Defendants Loan business.

As to the anti-trust violations, MUFG Holding Corp. Union Bank, N.A., et al engaged and continues to engage in Schemes - "Market Division" / "Exclusive Dealing" / "Group Boycotting" / "Price Fixing". These unlawful practices involve other "Money Center Banks" the likes of "Wells Fargo" who was and is heavily committed and invested in providing Capital Credit Lines to "Independent Auto Finance" lenders with portfolios north of a few million dollars in size minimum. Hence when

Plaintiff's 20-year career with a large Wells Fargo Private Capital Client came to an end and Plaintiff started his own Independent Auto Finance Company with MUFG Union Bank's Home Equity Line Credit, he was targeted as a threat to their multi-billion-dollar network and initiated an "adjustable mortgage" were of sorts since MUFG Union Bank was, by contrast, very heavily invested and committed to these products. Furthermore, the defendants were also engaged in a complete "buy-out" of the Bank by "Japanese Banking Conglomerate" Mitsubishi UFJ Financial Group, the Fifth Largest Banking Conglomerate in the World, with $2.812 Trillion in assets as of 2019. The takeover bids for the remaining 35% of Union Bank Shares Mitsubishi UFG did not already own transpired in late 2008. Moreover, Morgan Stanley

also fell in line with a deal of roughly $6 billion for 21% of the commodities business, also in late 2008.

These monumental events gave the defendants the fuel to continue with their unlawful fraudulent schemes that included "Cooking of the Books" by artificially manipulation the Financial Data presented to a suitor (these actions are the initial steps of the Security / Bank / Commodities Fraud), such as MUFG – Mitsubishi UFG from Tokyo, Japan. To attract a higher bid for the purchase of Union Bank. In fact, during the week of August 11, 2008, Union Bank turned down a $63-a-share offer from Mitsubishi UFG, as insufficient / too low a price which led to a 17% increased offer the following week of August 18, 2008 for a final sale price of $73.50-a-share for the remaining 35% equity stake the Japanese Banking Conglomerate

did not already own and making Union Bank a wholly owned subsidiary of Mitsubishi UFG. Concurrently, before the launch of Plaintiff's' business, during the preceding year or so, the defendants would be providing the necessary capital for Liberty Credit Corp's unfolding, causing Plaintiff to make financial commitments in commercial space, equipment, CPA's, attorneys, etc. based on the literature, documentation, and verbal commitments, to provide the vital capital necessary to be extended by the defendants.

However, upon consummating the sale of the "Bank" the defendants played out their "Market Division", "Exclusive Dealing", "Group Boycotting" and "Price Fixing" schemes with the likes of "Wells Fargo", Bank of America (who also provide(d) capital to "Independent Auto Finance" lenders),

"Goldman Sachs" (Morgan Stanley Direct Competition and other conflicts known) and others, as Mitsubishi UFG got its sights on New York City for a presence in the United States Financial District Epicenter and Market Place to the World. All the while, Plaintiff continued to execute on the financial mortgage obligations to the defendants and the successful launching of Liberty Credit Corp. repeatedly seeking to have the defendants honor their commitments to Capital, but to no avail, which led to catastrophic damages, losses in the millions and ongoing, and the derailing of business, family life, and livelihood. Moreover, through the processes of repeatedly requesting the defendants' promised Capital facility the defendants repeatedly discriminated upon Plaintiff and his family including mother and stepfather to

the point of refusing to even allow them to apply together for credit (E.C.O.A. violation) so as to conceal their premier qualifications as borrowers and co-borrowers which would provide further confirmation of Plaintiff's complete qualifications for the Capital that not only had been repeatedly promised, but, also, fully met all the criteria required by the defendants' underwriting guidelines validated by their own actions during the establishment of the initial Home Equity Line of Credit (HELOC) and defendant's impose-demanded full withdrawal of the $568,000 available line of credit. The discriminatory acts were relentless, consistent, and included mistreatment / substandard customer service as was provided to Asian and White female customers, often was made to wait needlessly, even when

customers were absent from the lobby. Staff members made negative comments about Plaintiff's children (only three at the time) and expressed disapproval with their vivid, outgoing, and confident personalities. So flagrant was their distaste for everything related to "Lopez", that when Parent Company Executive Tokyo, Japan guest "Toshihiro Tsuruno" visited Liberty Credit Corporations office in about 2010, Plaintiff's first born son, "Noah Abraham" (who was only 3 to 4 years old) as a parting gift upon the conclusion of the office meeting independently offered him a chocolate chip cookie from his "Famous Amos" bag but he rudely declined to accept it, in front of Ross Chung, Union Bank – Irvine Branch Vice President.

Unfortunately, these defendants were not satisfied with the derailing of business but also moved to seize Plaintiff's home refusing to permit a loan modification (despite fully qualifying on every front and having over 2 million dollars in equity before launching company) and given the hardship they themselves inflicted upon Arthur Lopez by eliminating the only source of income and livelihood and, despite still having substantial equity in home since the liens from Union Bank totaled approximately $1.8 million after the company's launch and the home, a semi-custom estate of roughly 5,000 sq. ft, appraised over $3,000,000 – and having active performing auto loan receivables. These deprivations were also discriminatory and prejudicially motivated. In fact, throughout the Loan Modification application

process the defendants' staff required submittal of documentation multiple times claiming to not be able to locate earlier submissions and also failed to make available solutions otherwise made available to other customers – For example, 1.) Plaintiff was the beneficiary of a $53,000. – Note on a different property, which was offered and provided additional security and capacity to pay upon sale of third property, and 2.) any mortgage payments that may have been in arrears could and normally would be deferred to the tail end of the loan through modification. These considerations were not provided by the defendants but afforded to other customers.

Shockingly, these defendants through their political and financial influence within the State of California managed to compel Plaintiff and his four

minor children including Newborn "Luke Jesus" out of their home of ten years despite filing for Bankruptcy Protection, having a $53,000.00 note sufficient to cover all arrearage on existing mortgage payments and despite having been defrauded by these defendants and with numerous other claims all presented in an infringement of Due Process, "Relief from Stay" Bankruptcy Hearing (January 2012) was restricted and limited in what he could say during the hearing before Judge Robert Kwan, and having timely filed and served an opposition to the "Relief from Stay" motion which outlined the various claims of Fraud against Union Bank (See Appendix E). In addition, Plaintiff repeatedly informed and conveyed the various claims against these defendants before the U.S. Trustees representing the Bankruptcy court

all of which is on audio CD's clearly confirming those claims (although not permitted as evidence here). Nevertheless, through what appeared to be a Rubber Stamp process by Judge Robert Kwan (who was soon after replaced by Catherine Bauer as presiding judge for the remainder of the Bankruptcy processes), Plaintiff was pushed out to the streets with his 4 adorable children.

More shockingly even yet was the fact that these defendants were able to hire a Superior Court of California, County of Orange volunteer judge as counsel -- out of the same Superior Court where the case was being litigated -- in the 2012 initial State Civil Lawsuit. Plaintiff was compelled to terminate unscrupulous first BK / Civil attorney Joseph Rosenblit (terminated 12/30/2011). The two replacement attorneys appeared in place of lawyer

referral service scheduled interview with attorney Jennifer Axelrod. These two attorneys collected $10,000 and took over the BK processes (early 2012) and filed the civil action against these defendants in May 2012. Their names are Bryan Thomas and Amid Bahadori out of Irvine, CA (See Appendix ZZZ).

However, the Civil State action was short-lived due to the defendants' "volunteer judge/attorney" counsel who lied, misrepresented, and deceitfully conveyed to the Superior Court Presiding Judge Francisco J. Firmat false claims that Plaintiff had not informed the Bankruptcy Court about his claims against "Union Bank". This could not be further from truth since not only informed / conveyed / stated his claims against these defendants in writing but also served the

defendants with copies of these claims and also has obtained audio CD's of recordings related to Plaintiff's conveyance of these claims to the U.S. Trustees @ the Bankruptcy Court in early 2012 and late 2011 (Case #11-BK-25308-CB, See Appendix E).

Even so, despite complete honesty and full disclosure by the Plaintiff and being represented by two attorneys in the State Civil Case, the defendants' "volunteer judge / attorney" – Richard Sontag had his colleague Superior Court Judge Francisco J. Firmat grant a dismissal of Plaintiff's case by citing matters out of his jurisdiction - Bankruptcy Court. He erred and abused his discretion concluding as presented by "Sontag", Plaintiff had not disclosed his claims against Bank to the Bankruptcy Court – entirely and

unequivocally false, see Appendix E.

Unfortunately, the two plaintiff attorneys, upon completion of the Civil Case / Bankruptcy Petition vanished, never having made any effort to amend BK filings / or these defendants' wrongdoing. They did not see Due Process or Equal Protection under Law as provided by the 14th amendment since the opposing attorney was also a judge with the same court – a monumental conflict of interest and even unethical but never conveyed to Plaintiff.

Therefore, with no relief possible within the California Judicial System, Plaintiff pursued justice @ the Federal Jurisdiction and commenced the first of two civil cases. U.S. District Court Case No. SACV-15-1354 and the second case No. SACV-17-1466. In the matter of case No. SACV-17-1466, Judge concluded "the court declined to exercise

supplemental jurisdiction over the single state law claim for Intentional Infliction of Emotional Distress and thus affirming this cause of action was and continues to be not barred nor subjected to res judicata in her June 7, 2018, Civil Minutes Order (Appendix F)

Moreover, in the matter of Case No. SACV-15-1354 the Federal judge / court acknowledged and cited Plaintiff's cause of action for Theft of Trade Secrets also not being barred by res judicata in the March 30, 2018, Civil Minutes order attached here as Appendix F. In this same order, the court again stated it would decline to address the remaining state law claim (Infliction of Emotional Distress) and hence also not subject to res judicata (See Appendix F).

In truth, defendants, MUFG Union Bank, NA, et al and their attorney - volunteer judge Richard Sontag continue to damage and deny Plaintiff from obtaining Relief for their harm and amounts demanded in the initial complaint including $500,000,000.00 (net after taxes). This harm has gone on for approximately ten years by these defendants, creating homelessness and maintaining Plaintiff indigent through their vast network of associates and remains ongoing, Inflicting Emotional Distress repeatedly for this duration.

Defendants and their attorney and colleague judges have denied Petitioner of Trial / transfer of venue motion to neutral county, requested by Plaintiff and moreover denied Plaintiff's disqualification of judge motion for bias of Kathleen O'Leary in

violation of CCP 170.1-170.9 substantially affecting the rights of Plaintiff (Due Process – Equal Protection Under Law / 14th + 7th Amendment) and rights to recover monetary damages from the defendants for their Infliction of Emotional Distress, moreover, the defendants actively participated in a standard operating procedures of bias, Violations of rights of the E.C.O.A., discrimination, deprivation of U.S. constitutional civil rights (Fair Housing Act), but also violations of Mortgage Fraud, Theft of Trade Secrets, Infliction of Emotional Distress (Intentional and/or Negligent), misrepresentation, quiet title, and more. In fact, so unlawful and unscrupulous were the actions of these defendants that they planted a spy in Plaintiff's auto finance start-up company, stole Trade Secrets, and then implemented

Plaintiff's Trade Secrets-model within their bank operations, without permission from Plaintiff in violation of the Confidentiality Agreement established from the onset of their discussion and on the Cover of the requested Business Plan. Furthermore, these egregious acts also violate Trade Secrets Federal Statutes. (18 U.S.C. 1836). In addition, to orchestrating the thefts described above they perpetrated in the emotional torture of Petitioner, also destroying family unity, marriage of 14 years, culminated in a divorce further depriving Plaintiff of his quality of life and family resulting in further emotional distress. It should be noted that these conspirators have not stopped here. They infiltrated Plaintiff's places of worship, rogue court employees; sponsored donations to the Catholic Church to gain influence to target

Petitioner; the same occurred with Public Law Center; and numerous law firms, monetary contributions to government officials (state + federal) local and foreign for the same purpose of conspiring against Petitioner. The lower state courts have grossly erred in depriving Plaintiff of Justice, Due Process, his children, food, his wealth, assets, housing, business – Livelihood by prohibiting Statutorily mandated Transfer of Venue and Disqualification in Provisions for fair trial.

Argument: The Lower Courts grossly erred in defining res judicata as viable grounds to bar claims against the defendants for several reasons. First, the initial state case did not afford Plaintiff a full and fair opportunity to litigate his claim in state action; and Second, the initial state suit was

not based on the same causes of action; thus, the defendants did not meet their burden to demonstrate the conditions required to plea a res judicata defense, see Universal Insurance Company v. Office of the Insurance Commissioner, No. 12-2155 United States Court of Appeal, First Circuit June 19, 2014, Commonwealth of Puerto Rico;

Res judicata requires:

i.) The existence of a prior judgment on the merits that is final and unappealable

ii.) A perfect identity of thing or cause between both actions

iii.) A perfect identity of the parties and the capacities in which they acted

See Consumer Advocacy Group v. ExxonMobil Corp., 168 Cal. App 4th 675 November 20, 2008

ARGUMENTS

1.) No STATUTE OF LIMITATIONS BAR + NO BAR by res judicata

First, Plaintiff's causes of action in this case

a.) Intentional Infliction of Emotional Distress and

b.) Negligent Infliction of Emotional Distress

are, without any ambiguity, not barred by res judicata since, not only, were they never introduced as causes of action in the 2012 state case prepared and filed by Bryan Thomas and Amid Bahadori (Superior Court Case No. 30-2012-00565803), but also the U.S. District Court declined to exercise their authority for supplemental jurisdiction of the single state law claim (Infliction of Emotional

Distress) (See Exh. F). First stated by U.S. District Court Judge Honorable Josephine L. Staton in her March 30, 2016, order dismissing case without prejudice citing:

Furthermore, U.S. District Court Magistrate Judge Karen E. Scott on 09/15/2017 order reiterated the First Federal Action court Judge declined to address the remaining state law claim for Intentional Infliction of Emotional Distress," see Exh. F. Moreover, still, this U.S. District Court Judge Hon. Josephine L. Staton order of June 7, 2018, repeated "the court declined to exercise supplemental jurisdiction over the single state law claim for Intentional Infliction

of Emotional Distress," see App. F. Furthermore, Judicial Notice should be taken that Honorable Judge Josephine L. Staton from the U.S. District Court Central District of California also acknowledge that the Federal Claim for Theft of Trade Secrets was / is also not barred by res judicatas as cited in her March 30, 2016 order, (see App. F)" Consequently, as multiple U.S. District Court judges have concluded and stated on these different orders these present causes of action, in this present state court case, are not barred by the doctrine of res judicata. In addition, several relevant exceptions to res judicata exist, See Consumer Advocacy Group Inc. v

ExxonMobil Corp., 168 Cal. App 4th 675, November 20, 2008

To begin, the United States Supreme Court has held in Riehle v. Margolies 279 U.S. 218, 219 Fraud and Collusion, misrepresentations, provide exceptions to the res judicata bar, citing Last Chance Mining Co. v. Tyler Mining Co., 157 U.S. 683 (1895). In this present case, Plaintiff was represented by two relatively young attorneys, Bryan Thomas and Amid Bahadori in the first state action (case #30-2012-00565803) and defendants were represented by an employee of the trial court, volunteer judge Richard Sontag all of which was never disclosed to Plaintiff. Furthermore, when the defendants

requested dismissal of the case based on the false assertions that Plaintiff had not disclosed his claims to the Bankruptcy Court (which was filed 6 months earlier than the lawsuit November 3, 2011, and May 1, 2012, respectively). They did not oppose that false assertions related to the Bankruptcy Case nor did they explain any of the processes related to any of these occurrences to Plaintiff. However, Plaintiff did in fact repeatedly notify the Bankruptcy Court of his claims against Union Bank, not only through written declaration – opposition to Relief from State (see Appendix E) to the Bankruptcy court and served copy to defendants; during meetings with the Bankruptcy

Court trustee attorneys, Richard Marshack and David Goodrich, conveyed claims against Union Bank, which were recorded on audio recording CDs of these interviews on 12/13/2011 (file 1 + 2), 02/07/2012 and 02/22/2012 made available as evidence for trial, but not permitted as part of this petition.

Also, see other case law in support of exceptions to res judicata Simon v. Southern Ry. Co. 236 U.S. 115 (1915) "United States Courts, by virtue of their general equity powers, have jurisdiction to enjoin the enforcement of a judgment obtained by misrepresentation / fraud..." Moreover, see Pagan Hernandez v. University of Puerto Rico, 107 D.P.R. at

737, 754 (1978) whereby exceptions to res judicata enumerated were / are: 1.) the prior judgment was rendered pursuant to an invalid acceptance of the claim by the defendant, 2.) the prior judgment was entered by a court without jurisdiction, 3.) appeal from the prior judgment was attempted but could not be accomplished and appellant was not at fault, 4.) there is fraud, and 5.) there is a miscarriage of justice. Plaintiff's discovery of this facts until after dismissal of 2012 case and after attorneys had abandoned case. Accordingly, res judicata does not apply for any causes of action. Fraud occurred in procuring prior judgment since the Superior Court in concert with volunteer

employee judge / defense counsel and other involved attorneys participated in a charade / scheme to defraud Arthur Lopez and derail case premeditatively and by purposely keeping Plaintiff excluded from processes (due process) and obscure of information and documentation including defective and absent rules of court required documentation; and Miscarriage of Justice since Plaintiff was deprived of his U.S. Constitutional Civil Rights to Due Process under the 14th, 7th, 5th, and 4th Amendment, be free of unlawful seizure of property without due process under the 5th amendment. Plaintiff has also been deprived of relief, compensation and repeatedly harassed to Intentionally

Inflict Emotional Distress among numerous other catastrophic damages and rights deprivation; Public Policy demands an exception of res judicata to curtail / defend against fraud, deceit, trickery, racism, theft, corruption, etc.

Plaintiff has personally amended his claims against these defendants by amending the schedule B – Personal Property filings of his Bankruptcy Petition under Chapter 7 Case #8:11-BK-25308 on July 9th, 2021. Moreover, this Supreme Court has ruled in "In re: Pioneer Investment Services Co., 943 J. 2d 673,677 (1991)" - "Pioneer Inv. Servs. Co. V. Brunswick Assoc. (91-1695), 507 U.S. 380 (1993)" "courts are permitted

where appropriate to accept late filings caused by inadvertence, mistake, or carelessness, as well as by intervening circumstances beyond party's control.

ARGUMENT

State Courts erred by ignoring Tolling Doctrines.

a.) 2nd/Alternative Claims

b.) Continuing Violations

c.) Statutory Tolling Provisions (CCP 352 / 357)

d.) Change of Law

e.) Fraudulent of Concealment

f.) Delayed Discovery

Petitioner / Appellant's Argument

No Statute of Limitations Bar

a.) Alternative / 2nd Claims is applicable since in good faith, Plaintiff sought relief in another jurisdiction / venue before initiating

the current lawsuit, see Collier v. City of Pasadena, 142 Cal App. 3d 917, 924 – 926 whereby Statute of Limitations was brought to Equitable Tolling Doctrine during the pendency of the worker's compensation proceeding. Also see McDonald v. Antelope Valley Community College District, 151 Cal App. 4th 961, 614,88 CA Supreme Court Case #S153964, CA Court of Appeals Case #B188077

The State of California's alternative Second Claim Tolling Rule extends the relevant Statute of Limitations period when a person has several legal remedies and in Good Faith reasonably and timely pursues one of them and the defendant is not prejudiced since the first claim alerts the defendant to the action

– claim which ultimately forms the basis for the second claim, see Collier v. City of Pasadena 142 Cal app. 3d 917, 924 – 926 (1983) and see Myers v. County of Orange, 6 Cal app 3d, 626 – CA Court of Appeals, 4th District, Division Two - (1970) [Limitations period is extended (Equitable Tolling) when Plaintiff has several legal remedies exist and Plaintiff timely pursues one of them... the statute of limitations does not run on the other while he is thus pursuing the one and, the period during which the statute is tolled includes the time consumed in an appeal.],

In addition, to the California Alternative Second Claim Tolling Rule, the statute of limitations may be equitably tolled when under certain circumstances filing a lawsuit

earlier was impossible. See Lewis v. Superior Court (1985) 175 Cal. App. 3d 366, 380 [The Law never requires impossibilities]. Additionally, the clock on the limitations period begins when the last essential element to the cause of action occurs, see Neel v. Magana, Olney, Levy, Cathcart, and Gelfand (1971) 6 Cal 3d. 176; also, Howard Jarvis Taxpayers Assn. v. City of La Habra (2001) 25 Cal 4th 812 and Norgart v. Upjohn Co. (1999), 21 Cal 4th, 383, 397 and also see Fox v. Ethicon Endo Surgery, Inc., (2005) 35 Cal 4th 797, 806 – affirming a cause of action accrues at the time when the cause of action is complete with all of its elements.

The law provides for tolling the Statute of Limitations, on grounds of the Continuing

Violations, see Richards v. CH2M Inc., (2001) 26 Cal 4th 798 California Supreme Court (S087484) holding the Continuing Violation Doctrine allows liability for unlawful employer conduct occurring outside the statute of limitations period if it is sufficiently connected to unlawful conduct within the limitation period. Also, see United States Supreme Court ruling in National Railroad Passenger Corporation v. Morgan, 536 U.S. 101 (2002) stating "a charge alleging a hostile (work) environment will not be time barred if all acts constituting the claim are part of the same unlawful practice and at least one act falls within the filing period; in neither instance is a court

precluded from applying equitable tolling doctrines that may toll the times period.

Also, see United States Appellate Court holding in Keystone Insurance v. Houghton, 863 F. 2d 1125 (1988), 3rd Circuit articulating the third circuit's accrual rule, as long as (defendant) committed one predicate act within the limitations period the Plaintiff may recover, not just for any harm caused by the late committed-act, but for all the harm caused by all the acts that make up the total "pattern". In that case, courts will grant relief to earlier related acts that would otherwise be time barred citing Townes v. Pennsylvania Railroad Co., 264 F. 2d 397, 299 (3rd Cir. 1959) ("postponing of the running of the statute of limitations... in

statutory involving continuing or repeated wrongs"). Also, Palmer v. Board of Education, 46 F. 3d 628 (7th Cir. 1995), concluding the situation before the court enacted a "series of wrongful acts" that create(d) a series of claims finding lawsuit timely. Also, Cowell v. Palmer Township, 263 F. 3d 286, (3rd Cir. 2001) citing the Continued Violations Doctrine as an equitable exception to the timely filing requirement.

Specifically, the Defendants unlawful acts have and continue to rob Plaintiff of his quality of life, family, spouse, livelihood, business, home, property, social status, and many more catastrophic consequences to their outrageous conduct, making assurances – advertising – and promoting credit lines and credit access, and promising credit line increases but never fulfilling these promises / +commitments, 2.) Intentionally / Premeditatedly scheming to fraudulently foreclosing on Plaintiff's property knowing full well its value exceeded $3,000,000.00 and then passing it off to an associate for 50% of market value to satisfy the credit balances; all of which was obviously anticipated by their co-conspirators /

partners Plaintiff having provided multiple appraisal reports just before their refusing to modify the loan and/or deliver on the credit facility committed previously and knowing full well the essential necessity for capital to operate Plaintiff's solely owned auto finance company; 3.) Consequently, Plaintiff has been tortured for over 10 years causing severe suffering to the point of terminating his marriage and family bonds all of which have tormented and caused excruciating emotional distress daily in solitude and without the base necessities of the average standard of living and 4.) unambiguously clear in direct consequence to these defendants' unlawful acts by design, and as such textbook criteria for these causes of

action herein stated, Intentional / Negligent Infliction of Emotional Distress, all of which is sufficiently described in amended complaint pgs. 3-17 and 14-15.

ARGUMENT IN SUPPORT OF TOLLING AUTHORITY

In addition, Plaintiff has permanent injuries (since December 22, 2015) to his mid and lower back (including spinal compression between the C3 and C5 vertebras) requiring abstaining from sitting for extended periods of time so as to avoid exasperating the pain levels to these areas. In addition, Plaintiff suffers from Sciatica symptoms due to his Sciatica nerve pain. Plaintiff also suffered nerve / muscle damage to his right arm through his right thumb and hand. These nerve injuries remain and as such produce constant sensations / pains to his right hand and thumb which is exacerbated with pressure such as writing. Moreover, Plaintiff is precluded from running, and standing for prolonged periods as it causes

inflammation of the right and left ankles and swelling of the feet. These disabilities and several other permanent injuries limit Plaintiff's mobility as it exasperates pain levels. Plaintiff remains under doctor's care (multiple doctors) and requires daily medication.

Moreover, under CA CCP 356, which states: 'When the commencement of an action is stayed by injunction of statutory prohibition, the time of the continuance of the injunction or prohibition is not part of the time limited for the commencement of the action..." Consequently, Bankruptcy Petition under Chapter 7 having been filed November 3, 2011, and the subsequent "Discharge Order" having been issued 11/19/2012 also is cause for tolling of the statute of limitations for the duration of the "automatic stay" order in place by the

Bankruptcy Court for the duration of the bankruptcy case (in fact the case terminated 01/03/2014).

Related to Cause of Action Infliction of Emotional Distress is, without ambiguity timely filed because emotional distress continued upon discovery in 2015 of the defendant implementing Plaintiff's trade secrets into their auto lending operation. (In fact permanent disabilities also began in Dec. of 2015 which is cause for statutory tolling) Please see Kertes v. Ostrovsky, 115 Cal App. 4th 369 (2004); also see Wells v. California Tomato Juice, Inc., 47 Cal App. 2d 634, 637-638 (118 P. 2d 916); also see Bollinger v. National Fire Insurance Co., Hartland, Conn., 2S Cal 2d 399, 154 P. 2d 399, "Suits shall not be brought..." and "the period allowed for the commencement of the actions must be extended...".

In addition, to all herein contained above the additional eight causes of action introduced in light of the fact that res judicata is not applicable in this case since not only in "Schedule B" under Bankruptcy Case #11-BK-25308 been amended to reiterate claims against these defendants – see Exhibit E, but also the collusion fraud, mistake, omission that caused the "Schedule B" to remain at issue was and is of no fault or doing of Arthur Lopez since he remained represented by counsel at all steps of the bankruptcy processes and through the duration of the initial state case (under Case # 30-2012-00565803) which should have NOT been derailed by the persons involved including volunteer judge of the trial Superior Court & atty Richard Sontag which in itself establishes a serious conflict of interest unknown to Plaintiff until much

after the derailment of the case, please see: "In re: Pioneer Investment Services Co. v. Brunswick Assocs., 943 F. 2d 673, 677 (1991) whereby the U.S. Court of Appeals, 6th Circuit ruled on attorney's failure can constitute "excusable neglect".

California Supreme Court case Howard Jarvis Taxpayers Assn. v. City of La Habra, 74 Cal App. 4th 707, ruling of "continuous accrual given, Reversed,

Vol. 3, Pgs. 656-680 (Plaintiff's CA Appellate Court opening brief clerk's transcript reference)

Argument

Trial Court Erred

a.) In Denying disqualification of judicial officer

CCP 170.

b.) Passing on his very own disqualification

CCP 170.3 (5)

CCP 170.4 (c)(1)

1.) Simply Stated:

Judge Glenn R. Salter refusal to recuse himself from timely motion to Disqualify (CCP 170.4) is error and violation of California Code of Civil Procedure, CCP 170.4 (c) (1), moreover as such all order detrimental to Arthur Lopez in this case must be vacated, (Giometti, et al v. Etiennl 219 Cal 687; Supreme Court January 19, 1934) (In re:

Robert P., The People v. Robert P., 21 Cal App. 3d 36 June 29, 1981)

2.) Simply Stated:

Refusal to not pass upon his or her own disqualification is also in violation of CCP 170.3 (5) as such, under CCP 170.4 (c) (1), "all orders and rulings of the judge found to be disqualified made after the filing of the statement shall be vacated." including denial of transfer of venue, leave to amend denial, and dismissal order of this case (January 20, 2022, July 29, 2020, May 3, 2021, March 10, 2022, and March 28, 2022) Also order deeming causes of action as time barred and res judicata barred must be vacated as they are trumped by tolling exception doctrines.

3.) Simply Stated:

Judge Glenn R. Salter's disqualification April 28, 2021, subsequently denied by Judge Glenn R. Salter on May 3, 2021, was timely motioned upon discovery of abundance of good cause as Plaintiff had and has a clear understanding a fair trial may not be had in this current venue reinforced by the fact "opposing counsel" Richard Sontag remains a volunteer judge with the same venue doing work for free for the trial court - Superior Court of CA, County of Orange and Judge Salter's previous employer—Riverside County being defendants in an ongoing civil lawsuit (#30-2022-01287806-CU-POCJC) with Plaintiff.

Therefore, Judge Salter exceeded his authority by remaining involved in this case to

continue providing the defendants with a favorable bias / shield.

Argument

Trial court erred in denying transfer of venue as a fair trial can not be had in the current venue.

CCP 397 (b) (c)

Also, the trial court erred by denying / ignoring transfer of venue – refusing to change the place of trial as in other cases; and CCP 397 "The Court may, on motion, change the place of trial in the following cases: (a) When the court designated in the complaint is not the proper court, and (b) When there is reason to believe that an impartial trial cannot be had therein and (c) When the convenience of witnesses and the ends of justice would be promoted by the change; and CCP 398 (a) "If a court orders the transfer of an action or proceeding for a cause specified in subdivisions (b), (c), and (d) of Section 397,... The action or

proceeding shall be transferred to the nearest or most accessible court where the like objection or cause for making the order does not exist." Hence, since Plaintiff has encountered tremendous bias, fraud and obstruction of justice, withholding of evidence to derail Plaintiff's cases over many years @ the County of Orange Superior Court where in addition major conflict of interests exist whereby a volunteer judge is employed and doubles as counsel for two active civil cases and where 600 pages of evidence was withheld from a clerk's transcript it is unambiguously clear Plaintiff may not receive a fair trial in said venue and as such this court has an abundance of authority and justification for granting Plaintiff's Petition for Writ of Certiorari.

Moreover, under authority of 397 (b) (c) also states: "The court may, on motion, change the place of trial

in the following cases: (b) When there is reason to believe that an impartial trial can not be had therein." And also (c) "When the convenience of witnesses and the ends of justice would be promoted by the change." Therefore, please take judicial notice that the Superior Court, County of Orange staff in an attempt to sabotage a second Plaintiff civil case where Volunteer Judge Richard Sontag is co-counsel of record for defendants under appeal case #G058725 withheld over 600 pages from the clerk's transcript despite it being requested on the designation of record requiring a motion to augment the record to be filed which was granted by the appellate court. Astonishingly, more recent, even Plaintiff has discovered the Superior Court reporters in the County of Orange withheld three court reporters' transcripts from the Court of

Appeal Record as well, despite having been paid in full over one year ago (the involved two court reporters) and causing negative consequences on possibly seven appeal cases and prompting / requiring Motions to Augment the Record as well (Case #G057649, G059356, G059648, etc.). All of which also has caused tremendous delays and months of repetitive, needless processes and loss of time. Hence, for these reasons and a litany more Plaintiff is without any doubt that an impartial trial may not be had in the County of Orange Superior Court especially knowing the overwhelming influence these defendants have within the county courts to the point whereby a Public Defender candidly stated everyone in the Newport Beach courthouse "Hated" Plaintiff and the hostility is quite evident @ every counter.

Therefore, this court exercising its authority to promote the ends of justice as stated under 397 (b) is most justified for an abundance of good cause herein demonstrated by the corrupt actions clearly documented in the County of Orange Superior Court. Moreover, as per CCP 398 the nearest – most accessible court where the like objection or cause for making the order does not exist is the Superior court of California, Los Angeles County Stanley Mosk Courthouse and this Plaintiff's Petition for Writ of Certiorari.

Memorandum of Points of Authority in Support of Transfer of Venue and Disqualification of Judicial Officer – Judge

Statement of Facts

California Court of Appeals relief sought is required through this court due to bias and as the lower courts including the Trial Court and Staff Court of Appeals, Fourth District, Third Division have repeatedly demonstrated unambiguous bias and error in law (Transfer of Venue and Disqualification) applications denied.

In fact, the presiding judge of the court of appeals Judge Kathleen O'Leary is married to the director of the Public Law Center – Ken Babcock whose "pro-se clinic" senior staff attorney (Elizabeth Gonzalez) ***caused***, through a dereliction of duty for the Federal jurisdiction Civil case against these

defendants MUFG Union Bank, NA, et al ***to be dismissed***. Moreover, the lower courts exhibited extreme bias by way of refusing to recuse themselves from these cases where extreme conflict of interest and bias exist as the presiding justice spouse – Kenneth Babcock @ Public Law Center is, for years, being financially sponsored / supported by the defendants "Union Bank", for years! In fact, O'Leary + the court's subordinate judges are aware of these facts as previous filings make these disclosures including recent "certificate" of interested points in entities.

Argument

Extreme Conflict of Interest and Bias of Interested Entities and / or Parties reflecting this (G059356, etc.) previous disqualification (s) Motion have been ruled upon by herself (Judge O'Leary), in violation of California Code of Civil Procedure CCP 170.4, including specifically CCP 170.1 (a) (b), which states: CCP 170.1 (a) Judge shall be disqualified if any one or more of the following are true: (1) (A) The judge has personal knowledge of dispute evidentiary facts concerning the proceeding; (B) A judge shall be deemed to have personal knowledge within the meaning of this paragraph if the judge, or the spouse of the judge, or a person within the third degree of relationship to either of them, or the spouse of such a person is, to the judge's knowledge, likely to be a material witness in the

proceeding. "This statutory provision is most relevant since Presiding Judge O'Leary is aware of her husband having evidentiary facts concerning these proceedings and as such likely to be a material witness as does, she (see #G059356 -> #G5273068).

Hence, P.J. O'Leary erred in denying Petitioner's Request / Motion to Disqualify her from case against these defendants herself in violation of CCP 170 Case #G059356; also see Pioneer Investment Services Co. v. Brunswick LTD., 507 U.S. 380 1993). Moreover, P.J. O'Leary previous employers – Pohlson + Moorhead, LLP and Defendant – Union Bank also had associations of sort, even added together with Ken Babcock from the Public Law Center and her husband. This in itself cause for disqualification / recusal of P.J.

O'Leary especially since her husband's Directorship @ Public Law Center receiving Money (+$10,000 annually) from the defendants – Union Bank directly for many years present an unambiguous bias and conflict of interest since CCP 170.6 (2) (A)... served as a lawyer for a party ... or gave advice to a party in the present proceeding ... is most certainly applicable and furthermore, CCP 170.1 (a) (2) (c) states "A judge who served as a lawyer for, or officer of, a public agency that is a party to the proceeding shall be deemed to have served as a lawyer... and (3) (A) states: The judge has a financial interest in the subject matter in a proceeding or in a party to the proceeding and (B) states a judge shall be deemed to have a financial interest within the meaning of this paragraph if: (i) a spouse (Kenneth Babcock) living in the household

has a financial interest (most relevant since Kenneth Babcock – Public Law Center – Receives money (financial support) from the defendants. In addition, to CA Court of Appeals Presiding Judge Kathleen O'Leary having erred in denying disqualification from these matters related to MUFG Union Bank, NA she also erred by denying disqualification request of Petitioner / appellant / plaintiff herself despite serious matters of bias / conflict facts, this is also a violation of CA statute CCP 170.4, see following points of authority in support ->

Moreover, the state of California provides authority to disqualify a judge, CCP 170.1: (a) A judge shall be disqualified if any one or more of the following are true: (1) (B) A judge shall be deemed to have personal knowledge within the meaning of this

paragraph if the judge or the spouse of the judge, or a person within the third degree of relationship to either of them, or the spouse of such person is to the judge's knowledge likely to be a material witness in the proceeding; also (1) (A) The judge has personal knowledge of disputed evidentiary facts concerning the proceeding (4.) The judge, or the spouse of the judge, or a person within the third degree of relationship to either of them, or the spouse of such a person is a party to the proceeding or an officer, director, or trustee of a party... and (6.) (A) For any reason:

(iii.) A person aware of the facts might reasonably entertain a doubt that the judge would be able to be impartial. (B.) Bias or Prejudice toward a lawyer in the proceeding may be grounds for disqualification and (9.) (D) (C) At the request of a party or on its

own motion an appellate court shall consider whether in the interests of justice it should be direct that further proceedings be heard before a trial judge other than the judge whose judgment or order was reviewed by the appellate court.

See Solberg v. Superior Court of the City and Co. of San Francisco, et al, 19 Cal App. 3d 182 whereby the Supreme Court held parties had standing to make the motion for disqualification; the belief of a litigant, that he cannot have a fair trial before the assigned judge when expressed under oath in as affidavit, constitutes sufficient grounds for disqualification.

In fact, plainly stated these Superior Court of California, County of Orange defendants has notoriously deprived Plaintiff / Petitioner of his U.S. Constitutional Civil Right under the 14th

amendment going as far as impeding entry to the courthouse during business hours, refusing service at civil clerks windows during business hours, imposing unnecessary and extended artificial delays to obstruct justice, they have repeatedly withheld evidence from the clerk's transcripts to derail appeal cases (G058725 and G059356, G059648, etc.) the clerk reporters have purposely withheld court reporter transcripts from the record on appeal cases despite having been paid in full for the service (G059648), G058069, G057773, G057649, G059356, etc.). The clerk of Civil Appeals and Civil Justice have refused to accept filings on 12/13/2019 Civil Unlimited Cases to adversely affect litigation (30-2018-01000086) promoting calls to the local F.B.I. office, the Civil Clerks have refused to provide court records copies through the

standard channel of itemizing specific documents requested through their Kiosk and have also refused to honor fee waiver of copy cost despite Judge granting waiver order all of much more reported to the executive offices but to no avail and insisted retaliation.

Leave to Amend Argument

Trial court erred by denying leave to amend complaint filed **without leave** as permitted by CA statute. This error is in conflict w/ state and federal precedence, see Jomon v. Davis, 371 U.S. 178 1962 "Leave to amend should be freely given..." also see Harris v. Wachovia Mortgage, FSB, 185 Cal. App 4th, 1018 (May 21, 2010),

See

(Volume 3 Pages 816-848)

(Opening brief – Clerk Transcript Reference)

REASONS FOR GRANTING THE PETITION

The defendants have Inflicted enormous harm upon Petitioner Arthur Lopez over many years with the aid of their bought influences / associates and the bank, having been founded initially in California by Kaspark Cohn during the late 19th Century and eventually becoming Union Bank + Trust Company in 1918, with established headquarters in Los Angeles and then San Francisco, 1922 before merging with Bank of CA to form Union Bank of California allowed the defendants over a century to solidify the clout to carry out their immunity to deceptive / unlawful business practices with impunity until now. Petitioner developed over 20 years of subprime auto financing experience before starting Liberty Credit Corporation as the sole shareholder in 2007 and these defendants then

targeted Petitioner for his Trade Secrets. Hence, they enticed--compelled Petitioner to deliver a complete Business Plan including Financial and Accounting ledgers which revealed the mechanisms by which Liberty Credit Corp. would prosper implementing Petitioner's Intellectual Property-Trade Secrets. However, despite these being disclosed under strict confidentiality, the defendants implemented these secret methodologies into their vast banking network (discovered in 2015) without consent from Petitioner. Concurrently, the defendants executed their demise of Petitioner's company, foreclosed on his home through Fraud, continued to violate Federal and State Laws such as – Equal Credit Opportunity Act, Fair Housing Act – Title VIII of the Civil Rights Act of 1968 which prohibits

discrimination in the financing of dwellings and other housing related transactions because of his race, religion, sex, familial status and by doing so Inflicted Enormous Emotional Distress which continues as Relief is not yet granted since not only was Due Process deprived in the first Civil State action in 2012 through Fraud / Misrepresentation and as such No Res Judicata is applicable (approximately 2015), but also a change in Federal Law did not take hold until 2016 with the introduction of a civil cause of action to, U.S. Title 18 U.S.C. 1836 under the Defend Trade Secrets Act – Theft of Trade Secrets violations. Hence, litigation through jury trial and ruling on the merits has never taken place. Furthermore, the State Courts have erred in their refusal to permit litigation on the State Laws pertaining to the

Infliction of Emotional Distress despite the Theft of Trade Secrets never having been litigated and would constitute new operative facts separate from the initial state action of 2012 since Theft of Trade Secrets were not discovered until years after and @ the time the civil cause of action was not part of the law – Title 18 U.S.C. 1831 + 1832. The Civil Cause of action was implemented by new legislature in 2016 and hence there is no statute of limitations bar since Plaintiff has been disabled since 2015 and his efforts for Alternative - 2nd Claims underway since 2012 have not included this as a cause of action nor litigated to Trial. Moreover, under various Tolling Doctrines "Change in Law" tolls the Statute of Limitations just the same Delayed Discovery Tolling Doctrine since the Theft of Trade Secrets was not discovered until 2015 after

receiving facts about the defendants' implementation of the Trade Secrets into their Retail Union Bank branches by their very own loan officer during a phone conversation. In addition, there is no Statute of Limitation bar as to Infliction of Emotional Distress since the wrongful acts causing the Infliction also has been continuous and further created by the Theft of Trade Secrets discovered in 2015, the same year Plaintiff became disabled, which provides for Statutory Tolling provisions while the disabilities remain (CCP 354, 358). In fact, the CA Court of Appeal made reference to a 2 yr. gap in their opinion but also noted a 2 yr. statute of limitations applicable for Infliction of Emotional Distress which in itself cancels each other out and however, is lacking and in error by indicating Emotional Distress suddenly

stopped by foreclosure and excluding facts related to the other unlawful acts such as Theft of Trade Secrets discovered in 2015 and Fraud - Misrepresentations related to the false assertions by defendants related to the claims against the bank not being disclosed to the Bankruptcy court (see Appendix E) discovered after the Civil State Case dismissal in 202, circa 2013 - 2015 (Delayed Discovery Doctrine).

Hence for all these facts and authorities there is no applicable Statute of Limitations Bar and no res judicata bar (see Appendix F) as such petition should be granted.

CONCLUSION

In summary, these defendants having cause catastrophic damage with all the unlawful acts described herein and much more continuously, unrelentingly to this day Inflicting Emotional Distress Intentionally and/or Negligently by the outrageous disregard for U.S. and California law, acts and Ethics. Consequently, destroying Plaintiff's quality of life, peace of mind, auto finance business, and Theft of Trade Secrets, above and beyond, also causing loss of Plaintiff's custom estate residence recently valued at over $5,000,000, home of over ten years, loss of family – spouse, standing in society and having (in)directly caused permanent disabilities / injuries and as such petitions this court for Relief in the monetary amount of $500,000,000.00 net after taxes plus

royalties as permitted by Theft of Trade Secrets including United States Statute 18 U.S.C. 1836. These royalties are to be paid indefinitely to Plaintiff by Defendants to include benefits to them globally denied by their unlawful acts under United States Law as it relates to Theft of Trade Secrets – Intellectual Property. Relief to include punitive, compensatory and other relief this court deems appropriate, jury trial has always been demanded. See Declarations of Arthur Lopez, Table of Authorities.

The petition for a writ of certiorari should be granted.

August 7, 2024 Respectfully submitted,

Arthur Lopez, Petitioner (Self-represented)