

No. 17-9563

IN THE
SUPREME COURT OF THE UNITED STATES

CURTIS CLIFFORD INGRAM - PETITIONER

VS.

MATTHEW CATES - RESPONDENT(S)

PETITION FOR REHEARING OF ORDER
DENYING PETITION FOR WRIT OF CERTIORARI

CURTIS C. INGRAM

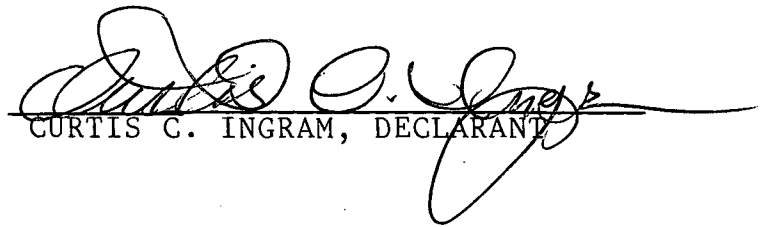
CDCR NO.: AE6335

P.O. BOX 2199

BLYTHE, CA. 92226

CERTIFICATION OF COUNSEL
(OR OF PARTY UNREPRESENTED BY COUNSEL)

Petitioner, Curtis C. Ingram, declares that this petition is presented in good faith and not for delay, on OCTOBER
25TH, 2018, at IRONWOOD STATE PRISON,
BLYTHE, CALIFORNIA.


CURTIS C. INGRAM, DECLARANT

QUESTIONS PRESENTED FOR REVIEW

IN CRIMINAL CASE NA083045, FRAUD ON THE COURT PERPETRATED BY OFFICERS OF THE COURT OCCURRED AS A DIRECT RESULT OF COMPETENCY HEARING DETERMINING INGRAM'S COMPETENCY TO STAND TRIAL BEING HELD IN HIS ABSENCE, WHILE AT THE SAME TIME STATING HIS PRESENCE, SO AS TO USURP JURISDICTION, WHERE NONE EXISTED.

1. Did fraud on the Court occur?
2. Did officers of the Court perpetrate fraud on the Court?
3. Did fraud on the Court affect the judicial machinery?
4. Was Ingram denied a fair trial?
5. What are the consequences for fraud on the Court?

PETITION FOR REHEARING

On June 26, 2018, Petition for Writ of Certiorari was placed on the docket. On October 1, 2018, the petition was denied. However, prior to this denial, Ingram sought redress of claim of fraud on the Court perpetrated by officer(s) of the Court in lower Courts.

On April 22, 2018, a Petition for Writ of Habeas Corpus was submitted to state trial Court raising the above claim. On June 27, 2018, Ingram submitted Motion and Request for Ruling on Habeas Corpus after trial Court failed to issue decision within 60 days. (Motion Attached). On July 6, 2018, trial Court issued Summarily Denied Order, failing to reach merits of claims, stating failure to address procedural issues. On September 11, 2018, Ingram submitted subsequent state Habeas Corpus to Second Appellate Court of Appeals, where it is currently pending.

On September 18, 2018, Ingram also submitted Motion for Independent Action in The United States District Court Of California Central District, raising the above claim. On September 26, 2018, District Court issued Notice of Document Discrepancy, however, stating that "Judicial Determination is required." (Notice Attached).

In the instant case sought for rehearing, Ingram submitted two separate Petition(s) for Writ of Certiorari, under the same heading- CURTIS CLIFFORD INGRAM V. MATTHEW CATES, though each petition addresses claims for two separate orders from The Ninth Circuit Court Of Appeals and The California Supreme Court. Both petitions were assigned case no. 17-9563, as they relate to state trial court case NA083045. The petition from California Supreme

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Court has (3) three APPENDIXES: A,B, and C, of which this petition for rehearing focuses on APPENDIX A. More specifically, this petition relies upon the affidavits contained in APPENDIX A, EXHIBIT 3, SUB-EXHIBITS: A,B,C, and D, as those documents support claim and demonstrate that fraud on the Court perpetrated by officer(s) of the Court occurred.

EXTRAORDINARY CIRCUNSTANCES WARRANTING REHEARING

On October 15, 2009, Judge James Otto, Prosecutor Kraig S. St. Pierre, and/or his counterpart, and Stephanie Dixon, Alternate Public Defender, and/or her counterpart, adjudicated competency inquiry hearing and suspended criminal proceedings based upon whatever substantial evidence was found at this hearing, done under the guise or pretense of Ingram's "presen[ce] in Court and represent[ation]", though Ingram's presence in Court and representation on this date are wanting. Ingram was not "present in court" nor "represented", where he was hospitalized from injuries sustained in the October 14, 2009, excessive force on pretrial detainee incident at Men's Central Jail, Los Angeles County. Because Ingram was absent from this proceeding, and the special nature of this proceeding, that is civil in nature- which dictates that procedure is to be strictly adhered to, leads to reasonable conclusion that competency inquiry hearing was fraudulently manufactured, due to usurped jurisdiction, perjured appointed defense counsel declaration of doubt, absence of defendant, and no findings or declaration of doubt by Judge Otto on court record.

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State trial Court competency hearings are special proceedings (Ca. Civil Code of Procedure §23), civil in nature. "Whether a person is competent to stand trial is a jurisdictional question, and cannot be waived by the defendant or counsel."(see, People v. Pennington, 66 Cal. 2d 508, 521 (1967); People v. Howard, 1 Cal. 4th at 1163-64 (1992); Pate v. Robinson, 383 US 375, 384)).

Although Superior Courts have exclusive jurisdiction over felonies, a proceeding to determine the question of the "present" sanity of a defendant is not part of the criminal trial, but is a special proceeding, civil in character. (see, e.g. People v. Loomis, 27 Cal.App.2d 236 (2d App.Dist.1938); In Re Shaw, 115, Cal.App.2d 753 (2d App.Dist.1953); People v. Superior Court(McPeters), 169 Cal. App.3d 796 (5th App.Dist.1985)). Jurisdiction over any special proceeding is limited by terms and conditions of statute under which it was authorized. (see, Woods-Drury, Inc. v. Superior Court of San Francisco, 18 Cal.App.2d 340 (1st App.Dist.1936); see also Palm Property investments, LLC v. Yadegar, 194 Cal.App.4th 1419, 1425 (2d app.Dist.2011)(same)("...[t]he statutory procedure must be strictly followed.")). Sanity contemplated by this section [§1368] is tested by appraising defendant's "present" ability to so understand nature and purpose of proceedings taken against him as to be able to conduct his own defense in rational manner. (see, People v. Woods, 19 Cal.App.2d 556 (2d App.Dist.1937)). State competency proceedings also triggers federal constitutional protection under the Dusky standard and is similar in scope and application of state prerequisites... it tests (1) the "present"

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ability of the defendant to consult with his lawyer with a reasonable degree of rational understanding; and (2) a rational and factual understanding of the proceedings against him. (see, Dusky v. U.S., 362 US 402 (1960); In Re R.V., 61 Cal.4th 188 (2015)). The commonality between Pen C §1368 and The Dusky Standard (as reaffirmed by Indiana v. Edwards, 554 US 164 (2008)), was for the trial Court to assess whether substantial evidence exists to warrant suspension of criminal proceedings for full competency hearing, as well as, to ensure that Ingram's constitutional rights to due process, confrontation, right to testify on one's own behalf, and fair trial, are secured. (see, e.g. People v. Ashley, 59 Cal. 2d 339, 363 (1963), cert. den., 374 US 819 (1963); People v. Sattiewhite, 59 Cal.4th 1446 (2014)). Ingram contends that no observations, testing, or application of the above standard or penal code could be applied- and suspension of criminal proceedings was unwarranted, where he was absent from this proceeding, thus no substantial evidence existed to suspend criminal proceedings, let alone question his competency to stand trial. Review can [and should] be made of the Court's resolution of the factual inquiry under the deferential substantial evidence standard. The ruling on whether the applicable law applies to the facts is a mixed question of law and fact that is subject to independent review. (see, e.g. People v. Ramos, 34 Cal. 4th 856 (2016); see also Drope v. Missouri, 420 US 162, 174-75 n.10 (1975)(Court undertook its own analysis of the facts concerning competency to assure appropriate enforcement of a federal right)).

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PROOF OF ABSENCE FROM COMPETENCY HEARING

The October 15, 2009, competency inquiry hearing was fraudulent in its entirety and manufactured for the sole purpose of suspending criminal proceedings directly after excessive force incident hospitalized Ingram. Ingram was neither, present in Court, nor transported to Court, to be present and be assessed or have his competency tested. However, Court record states that on the date in question, Ingram was "present in court and represented by Stephanie Dixon [,] Alternate Public Defender". (see, APPENDIX A, EXHIBIT 3, sub-EXHIBIT A, STATE TRIAL COURT MINUTE ORDER SCREEN, at "10/15/09" date). Contrary to this fraudulent Court entry, Ingram was hospitalized at "LCMC" (Los Angeles County -USC Medical Center; LAC+USC Medical Center), on 10/15/2009, as is supported by competent medical records. (see, APPENDIX A, EXHIBIT 3, sub-EXHIBIT D, INMATE MEDICAL DOCUMENTATION AND MISCELLANEOUS-INCLUDING INFORMATION FROM LA COUNTY MEDICAL CENTER). Also, in support of this claim, custody records demonstrate that Ingram was not transported to or from Court, to be tested or assessed, on 10/15/09. (see, APPENDIX A, EXHIBIT 3, sub-EXHIBIT B, LOS ANGELES COUNTY SHERIFF'S DEPARTMENT, INMATE TOTAL MOVEMENT HISTORY, INGRAM, CURTIS, BOOKING NO. 2031751, at "OCT-15-2009" ENTRY). Ingram contends that this proceeding did, in fact, occur, and cannot be waived off as inadvertence or clerical error, where trial Court record is silent of any entries after Ingram was unknowingly "certified" to Mental Health Court Dept. 95, and where Mental Health Court acknowledges "certification" of issue

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"com[ing] on calendar".(compare, MINUTE ORDER SCREEN, CASE NO. NA083045, at "10/15/09" date; to MENTAL HEALTH COURT DEPARTMENT 95, MINUTE ORDER, CASE NO. ZM015344, dated 11/05/09). The fact of "certification" and receipt of "certification" demonstrates that fraudulent competency inquiry hearing did, in fact, occur on October 15, 2009.

As stated above, Ingram was hospitalized on October 15, 2009, between 0155 hrs. to 1247 hrs. at LAC+USC Medical Center (see, MISCELLANEOUS, at DISCHARGE PACKET, APPENDIX A, EXHIBIT 3, sub-EXHIBIT D), where when compared to court record stating his presence on the same date and approximate time of "830 am", reasonably satisfies required demonstration and proof of his absence. Couple this established fact with additional fact that Ingram was not transported to or from Court on 10/15/2009 (see, INMATE TOTAL MOVEMENT HISTORY, pp. 7 of 10 and 8 of 10, at "OCT-15-2009" entries, APPENDIX A, EXHIBIT 3, sub-EXHIBIT B), further demonstrates that he was not "present in court and represented" on 10/15/09, given the additional fact that there is not any entry on this date of transport to or from trial Court, which would be indicated through wristband scans at various locations, irregardless of starting point. When compared to other court dates: "OCT-14-2009"; "NOV-06-2009"; or "NOV-17-2009, the absence of Court activity further proves that fraud on the Court was perpetrated by officers of the Court on this date.

FRAUD ON THE COURT PERPETRATED BY OFFICERS OF THE COURT

PETITION FOR REHEARING

The aforementioned officers of the Court knew or reasonably should have known that they did not possess jurisdiction to adjudicate competency inquiry hearing, declare doubt, or suspend criminal proceedings, where: (1) Ingram was absent; (2) jurisdiction of competency hearing was contingent on Ingram's presence, of which procedure was not followed; (3) Ingram was not present therefore was not represented by appointed counsel; and (4) Ingram was not tested, therefore no substantial evidence existed to warrant full competency hearing, thus suspension of criminal proceedings was structural error, in conjunction with violation of right to counsel. The whole premise of competency inquiry hearing was to adjudicate and suspend criminal proceedings under false, misleading, and bad faith conduct; underneath guise that Ingram was present in Court, represented, and has exhibited behaviors warranting full examination, even though no such behaviors are stated on court record. Judge Otto only presided over two Court proceedings, both, of which, are called into question, where Judge Otto unreasonably suspended criminal proceedings on 10/15/2009, allegedly based upon declaration of doubt of Court-appointed counsel, and not doubt arising in his own mind, contrary to case law. And, subsequently denied substitution of counsel, once proceedings were reinstated, where Court record states counsel other than Kwang Chul Ma (K.C. Ma) and Prosecutor Robert Hight, in subsequent 11/6/09 proceedings. Court records were altered to conceal the illegality and participation of appointed counsel and prosecution from fraudulently manufactured declared doubt competency hearing, where subsequent hearing seeking

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substitution of appointed counsel, K.C. Ma, states that proceeding sought substitution of Stephanie Dixon and that prosecutor Robert Hight was not present, but that Mary Suzukawa was in attendance. Both these claimed facts that were entered into Court record on 11/6/09, are false and fraudulent, as well as that of representation of any other appointed counsel but K.C. Ma, where both he and Robert Hight are absent from the same exact number of proceeding (5), from arraignment/probable cause hearing to preliminary hearing resetting.(see, Minute Order Screen, at dates "8/26/09"; "9/2/09"; "10/14/09"; "10/15/09"; "11/6/09", APPENDIX A, EXHIBIT 3, sub-EXHIBIT A). A Court of equity may grant relief against a judgment because of after-discovered fraud, regardless of the term of its entry, but such power should be caustiously exercised.(see, Hazel-Atlas v. Hartford-Empire Co., 322 US 238, 244 (1944)). "[A] Court of equity is not confined to cases of fraud. Want of notice and consequent inability to be heard may be sufficient ground for equity to interpose to set aside aside a judgment [or order]."(County of Alameda v. Clifford, 187 Cal.App. 2d 714, 721 (1st App.Dist.1960))."Fraud on the Court may occur when the acts of a party prevent his adversary from fully and fairly presenting his case or defense."(Abatti v. C.I.R., 859 F.2d 115, 118 (9th Cir. 1985),citing Luttrell v. U.S., 644 F.2d 1274, 1276 (9th Cir. 1980)). "Courts have inherent equitable power to vacate a judgment obtained by fraud."(Chambers v. Nasco, Inc., 501 US 32, 44 (1991)). To constitute fraud on Court, fraud must be part of unconscionable plan or scheme, or subvert integrity of Court itself, such plan cannot be garden variety

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fraud- it must arise to level of bribing judge, jury tampering, designing scheme to deceive Court, or involvement of officer of the Court in perpetrating fraud; fraudulent act must be intentionally false, willfully blind to truth, or in reckless disregard for truth.(see, Bowie v. Maddox, 677 F.Supp.2d 276 (D.C. Cir.2010)). In determining whether fraud constitutes fraud on Court, relevant inquiry is not whether fraudulent conduct "prejudiced the opposing party", but whether it "harmed the integrity of the judicial process."(see, Alexander v. Robertson, 882 F.2d 421, 424 (9th Cir. 1989)). No time limits or laches apply to the relief sought on fraud on Court because, fraud on the Court concerns the integrity of the judicial process itself, therefore a judgment may be set aside for fraud on the Court at any time. There is no limit on any party or Court.(see, Valerio v. Boise Cascade Copr., 645 F.2d 699, 700 (9th Cir. 1981)).

CONCLUSION

Rehearing is warranted upon demonstrated fact that trial Court did not possess jurisdiction to adjudicate competency inquiry hearing, in the absence of Ingram, where fraud on the Court was perpetrated by officers of the Court, by and through adjudication of competency hearing under pretense of Ingram's presence in Court, though he was absent, and use of fraudulent competency hearing to declare doubt and use non-existent substantial evidence to justify suspension of criminal proceedings for full competency hearing. This fraudulent proceeding was the direct product of the excessive force incident, the night prior,

PETITION FOR REHEARING

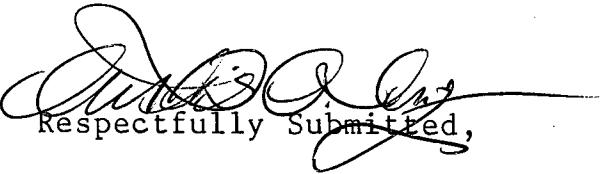
THAT HOSPITALIZED Ingram. Prior to this proceeding and incident, Ingram was not disruptive nor waived his appearance.

PRAYER

Wherefore, Petitioner, without any other available remedies requests that this COURT Grant this Petition for Rehearing and that the merits of his claim be reached.

I declare under the penalty of perjury that the foregoing is true and correct.

Date: 10/25/18


Respectfully Submitted,

1 Curtis Ingram #AE6335

2 P.O.Box 2199

3 Blythe, CA. 92226

4
5 IN THE SUPERIOR COURT OF CALIFORNIA, LOS ANGELES COUNTY

6 CURTIS CLIFFORD INGRAM,) CASE NO.: NA083045
7 PETITIONER,) PETITIONER'S NOTICE OF MOTION AND
8 V.) REQUEST FOR RULING ON HABEAS CORPUS,
9 LONG BEACH SUPERIOR COURT,) PURSUANT TO CA. RULES OF COURT, RULE
RESPONDENT.) 4.551(a)(3)(B).

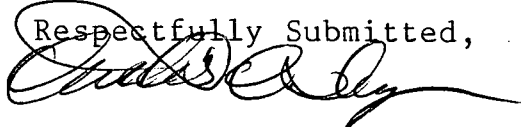
10 TO HONORABLE PRESIDING JUDGE OF THE SUPERIOR COURT, IN THE ABOVE
11 ENTITLED ACTION:

12 Please take notice that Pro Se Petitioner, Curtis C. Ingram,
13 hereby moves for Ruling on Habeas Corpus submitted on approximately
14 April 22, 2018, pursuant to Ca. Rules of Court, Rule 4.551 (a)(3)(B).

15
16 This Motion is based on its notice, habeas corpus (attached),
17 exhibits (attached), fraudulent/manufactured 10/15/2009 competency
18 hearing that suspended criminal proceedings, and Declaration of
19 Curtis C. Ingram (attached).
20

21 I declare under the penalty of perjury that the forgoing is true
22 and correct.
23

24
25 Date: 6/27/18

26 Respectfully Submitted,
27 
28

DECLARATION OF CURTIS C. INGRAM

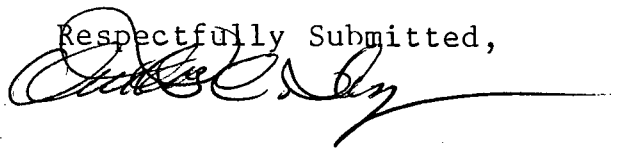
I, Curtis Clifford Ingram, hereby declare the following:

1. I am the Petitioner and Defendant in criminal case NA083045;
2. I submitted a Petition for Writ of Habeas Corpus on approximately April 22, 2018;
3. To date, I have not received a ruling or any other response from trial court;
4. The submitted Habeas Corpus petition was not returned to me;
5. The submitted Habeas Corpus petition had attachments in the form of Petition for Writ of Certiorari and Appendixes A, B & C;
6. The Subsequent/Successive Habeas Corpus petition addressed Newly Discovered Evidence showing that trial court fraudulently manufactured a competency hearing, in my absence, stating I was present, in order to suspend criminal proceedings directly following a pretrial detainee excessive use of force incident at Men's Central Jail-L.A. County, and is grounds for relief from judgment;
7. A proof of service was attached to Habeas petition;
8. I reasonably believe that I am entitled to relief, or, at the very least, a ruling on the merits of my claim;
9. I resubmit all of the items listed in point 5. with this notice and declaration.

I declare under the penalty of perjury that the foregoing is true and correct.

Date: 6/27/18

Respectfully Submitted,



SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

PEOPLE OF THE STATE OF CALIFORNIA

Plaintiff and Respondent,

v.

CURTIS CLIFFORD INGRAM

Defendant and Petitioner,

Case No. NA083045

ORDER SUMMARILY DENYING
HABEAS CORPUS PETITION

(Cal. Rules of Court 4.551(g))

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

JUL 06 2018

IN CHAMBERS

Sherri R. Carter, Executive Officer/Clerk
By: L. Barreras, Deputy

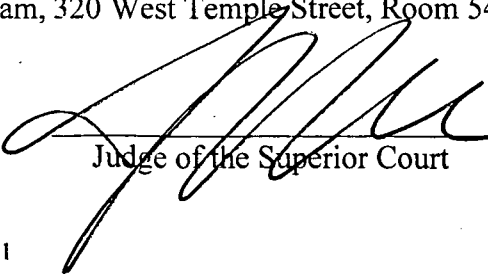
Petition for Writ of Habeas Corpus by Curtis Clifford Ingram, *pro se* ("Petitioner"). No appearance by a Respondent. The Court has read and considered the Petition for Writ of Habeas Corpus filed by Petitioner on 7/2/18. **Petition Denied for the following reasons.**

1. The petition raises issues which could have been raised on appeal, but were not, and Petitioner has failed to allege facts establishing an exception to the rule barring habeas consideration of claims that could have been raised on appeal. (*In re Reno* (2012) 55 Cal.4th 428, 490-493; *In re Harris* (1993) 5 Cal.4th 813, 825-826; *In re Dixon* (1953) 41 Cal.2d 756, 759.)
2. The petition is untimely, and Petitioner fails to explain and justify the significant delay in seeking habeas corpus relief. (*In re Burdan* (2008) 169 Cal.App.4th 18, 30-31; *In re Clark* (1993) 5 Cal.4th 750, 765; *In re Swain* (1949) 34 Cal.2d 300, 302.) "Substantial delay is measured from the time the petitioner or his or her counsel knew, or reasonably should have known, of the information offered in support of the claim and the legal basis for the claim." (*In re Robbins* (1998) 18 Cal.4th 770, 780.)
3. Petitioner filed a prior habeas corpus petition and failed to raise the claims raised in the current petition, and Petitioner has not alleged facts establishing an exception to the rule requiring all claims to be raised in one timely-filed petition. (*In re Reno* (2012) 55 Cal.4th 428, 454-455; *In re Clark* (1993) 5 Cal.4th 750, 767-768; *In re Horowitz* (1949) 33 Cal.2d 534, 546-547.)

For all of the foregoing reasons, the Petition for Writ of Habeas Corpus is DENIED.

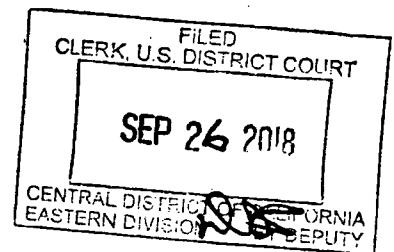
The Clerk is ordered to serve a copy of this memorandum upon Petitioner, and upon the District Attorney's Habeas Corpus Litigation Team, 320 West Temple Street, Room 540, Los Angeles, California 90012.

Dated: 7/6/18


Judge of the Superior Court

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF DOCUMENT DISCREPANCIES



To: ☐ U.S. District Judge / ☒ U.S. Magistrate Judge Kenly Kiya Kato

From: D. Taylor, Deputy Clerk

Date Received: 9/21/18

Case No.: 2:12-cv-07881-DOC-KK

Case Title: Curtis Clifford Ingram v. Matthew Cates

Document Entitled: Motion for Independent Action

Upon the submission of the attached document(s), it was noted that the following discrepancies exist:

- | | |
|--|---|
| ☐ Local Rule 5-4.1 | Documents must be filed electronically |
| ☐ Local Rule 6-1 | Written notice of motion lacking or timeliness of notice incorrect |
| ☐ Local Rule 7-19.1 | Notice to other parties of ex parte application lacking |
| ☐ Local Rule 7.1-1 | No Certification of Interested Parties and/or no copies |
| ☐ Local Rule 11-3.1 | Document not legible |
| ☐ Local Rule 11-3.8 | Lacking name, address, phone, facsimile numbers, and e-mail address |
| ☐ Local Rule 11-4.1 | No copy provided for judge |
| ☐ Local Rule 11-6 | Memorandum/brief exceeds 25 pages |
| ☐ Local Rule 11-8 | Memorandum/brief exceeding 10 pages shall contain table of contents |
| ☐ Local Rule 15-1 | Proposed amended pleading not under separate cover |
| ☐ Local Rule 16-7 | Pretrial conference order not signed by all counsel |
| ☐ Local Rule 19-1 | Complaint/Petition includes more than 10 Does or fictitiously named parties |
| ☐ Local Rule 56-1 | Statement of uncontroverted facts and/or proposed judgment lacking |
| ☐ Local Rule 56-2 | Statement of genuine disputes of material fact lacking |
| ☐ Local Rule 83-2.5 | No letters to the judge |
| ☐ Fed. R. Civ. P. 5 | No proof of service attached to document(s) |
| ☒ Other: | <u>Case closed on 1/19/16. However, judicial determination is required.</u> |

Please refer to the Court's website at www.cacd.uscourts.gov for Local Rules, General Orders, and applicable forms.

ORDER OF THE JUDGE/MAGISTRATE JUDGE

IT IS HEREBY ORDERED:

- ☒ The document is to be filed and processed. The filing date is ORDERED to be the date the document was stamped "received but not filed" with the Clerk. Counsel* is advised that any further failure to comply with the Local Rules may lead to penalties pursuant to Local Rule 83-7.

Date

9/26/18

Kenly Kiya Kato
U.S. District Judge / U.S. Magistrate Judge

- ☐ The document is NOT to be filed, but instead REJECTED, and is ORDERED returned to counsel.* Counsel* shall immediately notify, in writing, all parties previously served with the attached documents that said documents have not been filed with the Court.

Date

U.S. District Judge / U.S. Magistrate Judge

* The term "counsel" as used herein also includes any pro se party. See Local Rule 1-3.

COPY 1 - ORIGINAL-OFFICE

COPY 2 - JUDGE

COPY 3 - SIGNED & RETURNED TO FILER

COPY 4 - FILER RECEIPT