

CASE #: D075803

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT, DIVISION ONE

Anthony Johnson, an individual,

Petitioner

v.

Superior Court of the State of
California,
San Diego County.

Respondent.

David Huffman, an individual,
Richard Turner, and individual,
Manuel Altamirano, an individual, and
David Kinney, an individual,

Real parties in interest.

Case No. _____

Superior Court Case No.:
2019-00002457-Cu-BT-CTL

San Diego County Superior Court Case No. 37-2019-00002457-CU-BT-CTL
Hon. Katherine Bacal

PETITION FOR WRIT OF MANDATE

Anthony Johnson
In Propria Persona
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Las Vegas, NV 89104
(619) 246-6549
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VERIFICATION

I am the petitioner in this action. All facts alleged in this Petition for Writ of Mandate are true of my own personal knowledge.

I declare under penalty of perjury under the laws of the State of California that this Petition is true and correct.

Dated: May 8, 2019

Signed:



Anthony Johnson

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Petitioner Johnson brings this petition for writ of mandate to direct superior court judge, Katherine Bacal, to grant plaintiff Anthony Johnson's (Johnson") peremptory challenge filed in accordance with CCP¹ § 170.6 on the basis that Johnson believes judge Bacal to be prejudiced against him. Johnson has no other plain, speedy, or adequate remedy in the ordinary course of law to exercise his substantial right to disqualify Judge Bacal from this case.

Johnson is a self-represented plaintiff in this action – not by choice, but because the defendants have used Johnson's own company and his life's work to fund millions of dollars of litigation against him for almost 5 years. Johnson understands the courts' reluctance in dealing with a self-represented plaintiff, but Johnson gained significant knowledge of the law and the legal process in the course of the past litigation, and has demonstrated his ability to competently represent himself in this case. In the first status conference lasting only minutes, Judge Bacal demonstrated such contempt for Johnson and support for opposing counsel that Johnson believed in good faith that this peremptory challenge was necessary. Judge Bacal's denial of Johnson's peremptory challenge only amplified his concerns. No party will be prejudiced by assignment to a different judge before any issues involving the merits of the case are decided, and granting Johnson's peremptory challenge will promote the appearance of fairness and justice.

As discussed below, the dates of the certain filings and hearings unrelated to the 170.6 motion itself are nevertheless relevant in determining the timeliness of Johnson's peremptory challenge.

¹ "CCP" refers to California Code of Civil Procedures. Unless stated otherwise, all references to "Section" also refer to these statutes.

II. FACTUAL AND PROCEDURAL BACKGROUND

The complaint was filed in this matter on January 14, 2019.² (RJN, Ex. 1.) On February 12, three defendants, Huffman, Altamirano and Kinney, were served the summons and complaint, and on February 25, the remaining defendant, Richard Turner was served the summons and complaint. (RJN Ex. 2.)

A. The Defendants Failed to File a Responsive Pleading

On March 14, the defendants (represented by the same counsel) filed a motion demanding a plaintiff's bond under CCP §1030 and a motion to stay proceedings pending the bond pursuant to CCP §1030(e) with the hearings set for July 12. (RJN, Ex. 3.)

On March 15, Johnson filed for entry of default against defendants Huffman, Altamirano and Kinney, who failed to file an answer or other permissible responsive pleading provided under CCP § 585(b) within 30 days after service. (RJN Ex. 4.) On March 21, 2019, the clerk rejected Johnson's request for entry of default on grounds that there was a pending motion to stay on file. (RJN Ex. 6.) Johnson contacted the clerk of the superior court, and was informed that the entry of default was rejected in error because the defendants' motion for a stay under CCP § 1030 was not a responsive pleading provided by CCP § 585(b). (Johnson Decl. ¶ 3.) At the clerk's request, Johnson re-submitted the request for entry of default with a declaration explaining the court's error and providing relevant statutes and authorities. (RJN Ex. 8.)

On March 26, Johnson filed for entry of default against the remaining defendant, Richard Turner, who also failed to file an answer or other responsive pleading within 30 days after service. (RJN Ex. 9.)

² Unless otherwise stated, all dates herein are in 2019.

On April 12, several weeks after defendants were served notice of default, the defendants filed a motion to demurrer and a special motion to strike Johnson's complaint scheduled to be heard on August 2, 2019. (RJN Ex. 10.)

On April 14, pursuant to CCP § 585(b), Johnson filed and served a request for entry of judgment by the court against all defendants for damages stated in the complaint amounting to about half of the claims. (RJN Ex. J.) (Johnson Decl. ¶ 5.)

B. The Court Rejected Johnson's Requests for Entry of Default and Default Judgment

On March 18, the court noticed a status conference to be heard on April 15, specifically to address the defendants' pending motions for a bond and to stay proceedings. (RJN Ex. 5.) Johnson's traveled from Las Vegas to attend the conference in person, whereat the Court noted that the conference constituted Johnson's appearance in the action. (Johnson Decl. ¶ 6.) A senior partner of the large law firm representing the defendants also appeared, even though the attorney was not representing the defendants in this case, and engaged in a banter with Judge Bacal wherein they expressed their mutual admiration for one another. (Johnson Decl. ¶ 7.) An attorney from another law firm also stood on the side of the defendants, even though he too represented no parties in this case. Both attorneys, however, are indirectly implicated in Johnson's complaint by advising, supporting, and concealing improper conduct of the defendants in the course of prior legal actions. (Johnson Decl. ¶ 7; *See also* RJN Ex. 1, Complaint at pp. 34, 41, 46, 59-60.)

The defendants filed motions to demurrer and to strike Johnson's complaint almost a month after Johnson filed his request for entry of default and only one day before the status conference. (RJN Ex. 9.) At the status conference, Johnson noted that the defendants' motion to stay under CCP § 1030 was not a permissible responsive pleading under CCP § 585(b) and that his first request for entry of

default was erroneously denied and refiled per the clerk's instructions. (Johnson Decl. ¶ 8). The court issued its minute order indicating that it could not enter the default because "there are responses on file." (RJN Ex. 11.) The court then denied entry of default against all defendants. (RJN Exs. 12-13.)

With no other remedy available to enforce his statutory rights, Johnson promptly filed a petition with this Court of Appeals for a writ of mandate to direct the superior court to enter default against defendants and to set a date to hear evidence and render judgment against defendants for damages stated in Johnson's complaint. (RJN Ex. 14.) On April 26, the Court of Appeals denied the petition without explanation. (RJN Ex. 15.)

C. The Court Rejected Johnson's Peremptory Challenge

On April 26, pursuant to CCP § 170.6, Johnson filed a peremptory challenge to Judge Bacal. On April 29, the clerk rejected the peremptory challenge because the case number on one of the forms was mistyped. (Johnson Decl. ¶ 12.) Johnson promptly refiled the corrected papers the same day, still within the 15-day statutory deadline. (RJN Ex. 16.)

On April 30, 2019, the court issued an order denying Johnson's peremptory challenge on the ground that it was "Not Timely". (RJN Ex. 17.)

D. The Court Denied Johnson Request for Reconsideration

Johnson noticed and appeared at an ex parte hearing on May 7 to request the court reconsider his peremptory challenge, providing statutes and authorities showing that:

- a. The court has authority to correct its error in denying Johnson's peremptory challenge pursuant to CCP § 473(d);
- b. Johnson's peremptory challenge was timely filed pursuant to CCP § 170.6(a)(2); and

- c. If the court cannot grant the peremptory challenge, the judge should recuse herself to ensure the appearance of fairness. CCP § 170.1(a)(6).

(RJN Ex. 18 at pp. 4-6.)

At the ex parte hearing, the court stated that Johnson could only bring a peremptory challenge within 15-days after making an “appearance” in a case involving an all-purpose assignment, and that Johnson was apparently confused as to when such an appearance occurred. (Johnson Decl. ¶ 15.) Johnson was not allowed time to argue and the court issued its order denying Johnson’s ex parte application the same day. (RJN Ex. 19.) The order indicates the court’s refusal to reconsider the peremptory challenge but did not explain the court’s reasoning for why Johnson’s request was untimely. (Johnson Decl. ¶ 15.) The court did not respond to Johnson’s alternative request that the judge recuse herself based on his belief that she may not be impartial. (RJN Ex. 18 at pp. 4-6.)

III. LEGAL STANDARDS

“The determination of the question of the disqualification of a judge is not an appealable order and may be reviewed only by a writ of mandate [...] filed and served within 10 days after service of written notice of entry of the court’s order determining the question of disqualification.” (CCP § 170.3(d); *See Daniel v. Superior Court* (2006) 139 Cal.App.4th 28, 39.) A timely writ petition is “the exclusive means of appellate review of an unsuccessful peremptory challenge.” *People fHull* (1991) 1 Cal.4th 266, 268.

“Section 170.6 permits a party to an action to disqualify summarily an assigned judge based on a sworn statement of the party's belief that the judge is prejudiced against that party or the party's attorneys. Provided the statement is timely and in proper form, the judge has no discretion to refuse the challenge.” *Pickett v. Superior Court* (2012) 203 Cal.App.4th 887, 892, 138 Cal.Rptr.3d 36;

See also Bravo v. Superior Court (2007) 149 Cal.App.4th 1489, 1493. “A trial court abuses its discretion when it erroneously denies as untimely a motion to disqualify a judge pursuant to section 170.6.” *Zilog, Inc. v. Superior Court* (2001) 104 Cal.Rptr.2d 173, 178, 86 Cal.App.4th 1309.

“The right to exercise a peremptory challenge under section 170.6 is a substantial right and an important part of California's system of due process that promotes fair and impartial trials and confidence in the judiciary. [citation] [...] [S]ection 170.6 is to be liberally construed in favor of allowing a challenge, and a challenge should only be denied if the statute absolutely forbids it.” *Stephens v. Superior Court* (2002) 116 Cal.Rptr.2d 616, 622, 96 Cal. App. 4th 54, 61-62; *See also Bravo v. Superior Court* (2009) 149 Cal.App.4th 1489, 1493; *Nissan Motor Corp. v. Super. Court* (1992) 6 Cal.App.4th 150, 154.

IV. ARGUMENT

Johnson has a good-faith belief that the judge may be prejudiced against him and/or likely to favor the opposing party or attorneys. (Johnson Decl. ¶ 17.) The law allows Johnson, without further explanation, one peremptory challenge of a judge. Johnson made a procedurally sound and timely challenge, and the court had no discretion to deny him that right provided by statute. The court itself created delays from which it denied Johnson’s right to entry of default while permitting the defendants to file untimely dispositive motions, thereby giving rise to this peremptory challenge. The court then found Johnson’s peremptory challenge untimely without further explanation.

Whether the court considers Johnson’s concern of prejudice unwarranted is irrelevant. “We first stressed the importance of maintaining the appearance as well as the fact of impartiality in the judicial system: the business of the courts, we observed, must be conducted in such a manner as will avoid even the ‘suspicion of

unfairness.” *Solberg v. Superior Court* (1977) 561 P.2d 1148 (citing *Johnson v. Superior Court* (1958) 50 Cal.2d 693, 697).

A. Johnson’s Concern Arose When the Court Relied on Its Own Delay in Refusing Johnson’s Request to Enter Default

Johnson’s concerns over the judge’s impartiality first arose at the status conference when she deprived Johnson his right to entry of default against the defendants. Prior to the conference, Johnson’s first request was rejected because there was a motion to stay was on file. (RJN Ex. 6.) Johnson communicated to the superior court clerk that a motion to stay under CCP § 1030 is not a valid responsive pleading, and CCP §585(b) includes the only responsive pleadings that would bar entry of default. *Brown v. Pacific Tel. & Tel. Co.* (1980) 105 Cal.App.3d 482, 485. The clerk agreed, and instructed Johnson to refile his request. (Johnson Decl. ¶ 3.) Johnson immediately did so, and included a supplemental application with statutes and authorities showing that the clerk was required by law to enter the default. (RJN Ex. 7.) Johnson contacted the clerk several times over the next three weeks to inquire as to why his request was still pending, but was given no explanation. (Johnson Decl. ¶ 4.) Meanwhile, the defendants drafted their motions to demurrer and strike his complaint, which were filed the day before the status conference. (RJN Ex. 9.)

At the status conference, Johnson noted that his request for entry of default had been pending for several weeks. The court stated at the conference that it would not enter default against the defendants because there was *by that time* a motion to demurrer on file. (Johnson Decl. ¶ 8.) The court’s minute order indicates that it could not enter default because “there are responses on file.” (RJN Ex. 11.) “[A] plaintiff is entitled to the entry of default on the date he requests it if there is then no responsive pleading by the defendant on file.” *Spielberg v. Carlsen*, No. E051167 (Cal.Ct.App. Oct. 13, 2011) (citing *Goddard v. Pollock* (1974) 37

Cal.App.3d 137, 142; *See also W. A. Rose Co. v. Municipal Court* (1959) 176 Cal.App.2d 67, 72) (emphasis added.) “It follows, then, that the determinative question in this case is which of two events occurred first: the filing of defendants’ motion to quash or the filing of plaintiff’s request for the entry of default.” *Goddard v. Pollack* (1974) 37 Cal.App.3d 137, 142.

Johnson firmly believes that the defendants tried to trick him into believing their CCP § 1030 motion would stay their answer. (Johnson Decl. ¶ 16.) Either the clerk *was* fooled by the defendants or he rejected Johnson’s request to enter default to intentionally cause delay. (*See* RJN Ex. 6.) Johnson identified the clerk’s error and refiled his request, but this time he received no response for three weeks. The defendants filed a demurrer and a motion to strike the day before the status conference, whereat the court denied Johnson’s request for default based on those very motions that could not, by law, have been filed if the clerk had entered the default any time within a month of Johnson’s request.

“Courts must refrain from any tactic or maneuver that has the practical effect of diminishing this important right [to peremptory challenge].” *Hemingway v. Super. Court* (2004) 122 Cal.App.4th 1148, 1158.

B. Johnson Faces Further Fear of Prejudice by the Court Denying His Peremptory Challenge

Based on the above, Johnson had considerable reason to doubt the impartiality of the judge, and promptly filed his peremptory challenge to ensure the defendants’ motions (now unavoidable but legally untenable (Johnson Decl. ¶16)) would be heard in a different court. Johnson’s concerns regarding the court’s fairness were amplified the very next day when the court issued its order denying his peremptory challenge as “Untimely Filed” without explanation. (RJN Ex. 17.)

Johnson scheduled an *ex parte* motion for May 7 to reconsider his peremptory challenge, again providing the court substantial statutes and case law supporting

his position that the request was timely filed. (RJN Ex. 18 at p. 5.) The court's order denying Johnson's ex parte application ambiguously states, "The Court notes that there appears to be a misunderstanding regarding when the 15 days to challenge pursuant to CCP 170.6 begins. The Court will not reconsider its prior order denying the peremptory challenge." (RJN Ex. 19.)

Whether or not the peremptory challenge was timely is a matter of law. The court abused its discretion in denying the peremptory challenge as untimely without explanation, and the only remedy available is this writ procedure that provides no time for Johnson to request a statement of decision from the court.

C. Johnson Timely Filed the Peremptory Challenge

In a case assigned to a judge for all purposes, a peremptory challenge may be made at any time "if the party has not yet appeared in the action" or "within 15 days after the appearance." (CCP § 170.6(a)(2).) It's unclear what the court considered to be Johnson's first appearance, particularly since the date of a general appearance is ordinarily relevant only to defendants. "A general appearance occurs when the defendant takes part in the action and 'in some manner recognizes the authority of the court to proceed.'" *In re Vanessa Q.* (2010) 187 Cal. App. 4th 128, 135 (citing *Hamilton v. Asbestos Corp.* (2000) 22 Cal.4th 1127, 95 Cal.Rptr.2d 701, 714.) If a moving defendant "seeks relief on any basis other than lack of personal jurisdiction, he or she makes a general appearance." *Greener v. Workers' Comp. Appeals Bd.* (1993) 6 Cal.4th 1028, 1037. "An appearance is general if the party contests the merits of the case or raises other than jurisdictional objections. [Citations.]" *366-386 Geary St., L.P. v. Superior Court* (1990) 219 Cal.App.3d 1186, 1193-1194. Filing an answer on the merits constitutes a general appearance. (CCP § 1014; *California Dental Assn. v. American Dental Assn.* (1979) 23 Cal.3d 346, 352.)

Johnson's first step taken in the case was to request that the clerk enter the default against the defendants. "It is settled that the entry of default by the clerk is a ministerial duty and that he has no authority whatever to determine the sufficiency, either as to the substance or form, of a pleading on file." *Goddard v. Pollock* (1974) 37 Cal. App. 3d 137, 143. Entry of default is a strictly administrative task that precedes the actual court task of seeking of relief by way of a default judgment. Entry of default is "simply a ministerial act preceding the actual default judgment." *First American Title Co. v. Mirzaian* (2003) 134 Cal. Rptr. 2d 206, 209, 108 Cal. App. 4th 956. A request to enter default does not itself seek any relief or ask for a decision of the court on any matter.

On April 14, a month after Johnson requested that the clerk enter the default, Johnson filed a request that the court enter default judgment for the amounts stated in the complaint. (Johnson Decl. ¶ 5; RJN Ex. 10.) This was the first time Johnson requested any relief from the court, and twelve (12) days before he filed the peremptory challenge. On April 29, the last day to bring a peremptory challenge (should the court consider Johnson's request for default judgment a general appearance), the court rejected the peremptory challenge based on an incorrect case number on one of the forms. Johnson immediately refiled the request the same day, ensuring that it remained within the 15-day deadline. (Johnson Decl. ¶ 12.) The next day, the court nevertheless denied the peremptory challenge as untimely. (RJN Ex. 16.)

On April 15, the court held the first status conference in the case. Although Johnson filed his request for default judgment the day before, the court stated that it recognized the parties as making their "general appearance" in the case. (Johnson Decl. ¶ 6.) At no time prior to this did Johnson have any means of assessing the judge's demeanor nor did the judge participate in the litigation in any way. If the

court considered this Johnson's appearance for the purpose of a 170.6 motion, then Johnson's peremptory challenge was timely filed 14 days later.

CONCLUSION

Johnson simply had no means to navigate the delays and ambiguous decisions of the court that caused him to file the peremptory challenge, and Johnson has no means of knowing why his challenge was denied. In the interest of justice and to promote the appearance of fairness, Section 170.6 should be liberally construed to allow Johnson's case to be heard in a different court.

PRAYER

WHEREFORE, Johnson prays that a writ of mandate issue from this court directing the Superior Court judge to grant Johnson's peremptory challenge based on his good-faith belief that the judge is prejudiced against him.

Date: May 8, 2019

Respectfully Submitted,

By:  _____
Petitioner in *propria persona*

CERTIFICATE OF WORD COUNT

I hereby certify that pursuant to Rule 8.204(c)(1) of the California Rules of Court, the enclosed **PETITION FOR WRIT OF MANDATE** is produced using a 14-point Roman type font, including footnotes, and contains 3,272 words, which is less than the total of 14,000 words permitted by the rules of court. I relied on the word count of Microsoft Word used to prepare this brief.

Dated: May 8, 2019



Anthony Johnson

DECLARATION OF ANTHONY JOHNSON

1. I, ANTHONY JOHNSON am over 18 years of age and a resident of Las Vegas Nevada. I am self-represented in this action, have personal knowledge of the facts in this matter and stated herein and, if called as a witness to testify, could competently do so.

2. I submit this declaration in support of the Petition for a Peremptory Writ of Mandate to direct the superior court to grant a peremptory challenge or alternatively to recuse of Judge Bacal on the basis of significant doubt of her impartiality as demonstrated by decisions that have deprived me substantial rights.

3. On March 21, I received notice that the clerk rejected my request for entry of default against defendants because there was a motion to stay on file. I contacted the clerk, who agreed that the default was denied in error because the motion to stay under CCP § 1030 was not a responsive pleading. The clerk asked that I resubmit my filing, and I did so on that day, March 21, 2019. I included a supplemental declaration explaining the error with the relevant statutes and authorities.

4. I contacted the court clerk several times to inquire as to the status of my request for default. Each time I was told that the matter was pending. After the court delayed entry of default for an additional three weeks, the defendants filed a demurrer and a special motion to strike my complaint on April 12.

5. On April 14, I electronically filed a request for default judgment against all defendants, including a declaration and exhibits proving the amounts stated in the complaint (which amounted to only about half the unstated damages) and pre-judgment interest. OneLegal indicates that the court received the documents and they passed review, but the documents have not shown up on the court docket and have not been returned.

6. On April 15, I attended the conference in person, whereat the Court noted that the conference constituted the general appearance of the parties.

7. A senior partner, Michael McCloskey of Wilson Elser Moskowitz Edelman & Dicker, a large law firm representing the defendants, was personally familiar with the judge and appeared at the conference aside his associate, Marty Ready, even though Mr. McCloskey wasn't representing the defendants in this case. Judge Bacal noted that she and Mr. McCloskey were attorneys at the same law firm about 15 years earlier, and they engaged in banter demonstrating their mutual admiration for one another. Another attorney, Sean Sullivan of Procopio Cory Hargreaves & Savitch, stood with Mr. McCloskey and Mr. Ready even though he and his law firm represent no parties in this case. Both of these attorneys have significant interest in defeating my current claims due to their having advised, supported, and concealed improper and unethical conduct of the same defendants in prior actions against me including the lawsuit subject to a malicious litigation claim and their unlawful use of my shareholder profits to defeat prior claims brought on the company's behalf in a shareholder derivative action.

8. I informed the Court that I refiled my request for entry of default after the court erred in rejecting my prior request, that a motion to stay is not a permissible responsive pleading under 585(b), and that my request for entry of default was still pending after several weeks. The Court stated that it would not enter default because defendants *now* have a pending motion for demurrer, and that it would hear all of the defendants' motions at the July and August hearings.

9. The court entered its order indicating that the status conference "was set to address Mr. Johnson's repeated requests for entry of default", that the default cannot be entered because "there are responses on file" and "even if default had been entered the Court could not enter Judgment" because "the Statement of Damages was filed after the Request for Entry of Default". I did not file a

statement of damages knowing that such a statement is only allowed for default judgments in personal injury and wrongful death cases. (CCP ¶ 425.11.) I limited my request for compensatory damages to those specifically stated in my complaint (CCP ¶¶ 585(b)), but I filed a statement of *punitive* damages in accordance CPC 425.115.

10. On April 25, I filed a Petition with this Court of Appeals for a writ of mandate to direct the Superior Court to enter default against defendants and to set a date to hear evidence and render judgment against defendants for damages stated in the complaint.

11. On April 26, the Court of Appeals summarily denied the Petition without explanation.

12. Also on April 26, pursuant to CCP § 170.6, I filed a peremptory challenge to Judge Bacal. The clerk initially rejected the peremptory challenge because the case number on one of the forms was mistyped. I promptly refiled the corrected papers on April 29, still within the 15-day statutory timeframe for a peremptory challenge.

13. On April 30, 2019, the Court entered an order denying my peremptory challenge because it was “Not Timely”.

14. On May 1, I filed notice of an ex parte motion to be heard on May 7 to request Judge Bacal reconsider my peremptory challenge because I believe it was timely filed, and also because I no longer believed she could fairly decide my case.

15. At the hearing, the court stated that I was confused as to when a plaintiff makes an “appearance”, and that Section 170.6 only allows me to bring a peremptory challenge within 15 days after an “all-purpose assignment.” I was prepared to argue what constitutes an appearance for the purpose of a peremptory challenge, but the judge would not allow any discussion and did not address my

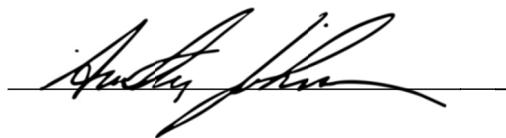
alternative request that she recuse herself based on my belief that she may not be impartial, and to ensure the appearance of fairness.

16. On information and belief, the court intentionally delayed entry of default against the defendants for several weeks in order to afford them time to file their demurrer and motion to strike after they failed to trick me into believing a motion to stay under CCP § 1030 was a responsive pleading. At the April 15 status conference, the court denied my request for entry of default based on pending motions that were filed the day prior. I was deprived my substantial right to default or an answer to my verified complaint and am now burdened with dispositive motions that are legally tenuous because of what I believe to be an tactical legal maneuver sanctioned by the court.

17. Based on the foregoing, I believe in good faith that Judge Bacal is prejudiced against me and has shown considerable favor toward the opposing party. Judge Bacal has rendered her decisions without allowing me to present my substantial and sound arguments and without opposing counsel ever speaking on any issues.

18. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on May 9, 2019 at Las Vegas, Nevada.

A handwritten signature in black ink, appearing to read "Anthony John", is written over a horizontal line.

PROOF OF SERVICE

I, Anthony Johnson, declare that I am over the age of 18 and a self-represented party in the foregoing action. I am familiar with the business practice for electronic filing and service through OneLegal and electronic mail, pursuant to which practice I served the foregoing:

- 1. PETITION FOR WRIT OF MANDATE**
- 2. DECLARATION OF ANTHONY JOHNSON**

by electronic filing and service to the e-mail addresses of parties of interest or their counsel listed below:

Superior Court of the State of
California, County of San Diego

Case No. 2019-00002457-CU-BT-CTL

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I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct.

Executed on May 9, 2019 at Las Vegas, Nevada.


Anthony Johnson