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5 Plaintiff

6 SUPERIOR COURT OF CALIFORNIA
7 COUNTY OF ALAMEDA

8 ABDUL-JALIL al-HAKIM,
9 Plaintiff,

Case No. 811337-3

10 V.

PLAINTIFF'S STATEMENT OF
DISQUALIFICATION OF JUDGE JON
TIGAR. C.C.P. §170.1, §170.3, §170.4; Business
and Professions Code sections 6068,
subdivisions (b) and (f), 6103 and 6106 and
former rule 7-105(1) of the Rules of
Professional Conduct; Cal. Code Jud.
Conduct Cannons 1, 2, 2A, 2B(2), 3B(2),
3B(4), 3B(5) and 3B(8); and United States
Constitution Amendments I, V, VI, and XIV,
and State of California Constitution, Article I
Section 13, Article VI, Section 13, and Article
VI, Section 18, subd. (d)(3)

11 CALIFORNIA STATE AUTOMOBILE
12 ASSOCIATION INTER-INSURANCE BUREAU,
13 KENNETH C. GEORGE, RONALD J. COOK,
14 WILLOUGHBY, STUART & BENING, AND
15 DOES 1 THROUGH 100 , inclusively,
16 Defendants,

Date:
Time: 9:00 A.M.
Location: Department 21
Trial Date: February 15, 2008

17 _____/

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22 **"Telling the truth is the bedrock of our judicial system and a slap on the wrist will not provide a**
23 **deterrent," - The Honorable Judge St. Eve, July 11, 2007.**

24
25 **1.** I, ABDUL-JALIL al- HAKIM, hereby declare as follows:

26 **2.** I am the plaintiff in the above-entitled action. Plaintiff is aware, feels, believes and thereon allege that
27 Judge Jon Tigar made knowingly false statements in an effort to demean, humiliate and provoke plaintiff
28 while lying under oath and perjury; dishonesty; fraudulent deception; calumny deceit; willful and prejudicial
29 misconduct; abuse of discretion; negligence; bias; prejudice; misrepresentation; incompetence; conflict of
30 interest; bad faith; collusion; denial of due process; obstruction of justice; racism; bigotry; has exhibited,
31 expressed and shown a fixed opinion of Plaintiff; displayed favoritism towards the defendants; made false
32 accusations; harassed Plaintiff; has willfully, deceitfully and recklessly indulged in a series of offensive acts

1 and statements against plaintiff and has displayed disdain, malice, and a mental attitude or disposition
2 toward Plaintiff that prohibits the right to a fair hearing or trial, so for the purposes in this proceeding, these
3 are grounds for disqualification from hearing the above entitled matter under Code Civ. Proc. §170.1(a)-
4 6(B), §170.3(a)(1)-4(c), and §170.4(a)-(3); Business and Professions Code sections 6068, subdivisions (b)
5 and (f), 6103 and 6106 and former rule 7-105(1) of the Rules of Professional Conduct; and Cal. Code Jud.
6 Conduct Cannons 1, 2, 2A, 2B(2), 3B(2), 3B(4), 3B(5) and 3B(8). Judge Tigar’s persistent willful
7 misconduct, bad faith, mistreatment, promised retaliation and “atmosphere of unfairness” violates and
8 strikes at the heart of Petitioner’s fundamental civil rights and due process under the law guaranteed by the
9 United States Constitution Amendments I, V, VI, and XIV, and as applicable to this state of California
10 Constitution by the first clause of Section 13 of Article I; Article VI, section 13, as a "miscarriage of
11 justice."; Article VI, section 18, subd. (d)(3)

12 **3. CODE OF CIVIL PROCEDURE SECTION 170-170.4 reads as follows:**

13 170.1. (a) A judge shall be disqualified if any one or more of the following is true:

14 (1) (A) The judge has personal knowledge of disputed evidentiary facts concerning the proceeding.

15 (6) (A) For any reason:

16 (i) The judge believes his or her recusal would further the interests of justice.

17 (ii) The judge believes there is a substantial doubt as to his or her capacity to be impartial.

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

20 (B) Bias or prejudice toward a lawyer in the proceeding may be grounds for disqualification.

21 170.3. (a) (1) If a judge determines himself or herself to be disqualified, the judge shall notify the
22 presiding judge of the court of his or her recusal and shall not further participate in the proceeding, except
23 as provided in Section 170.4, unless his or her disqualification is waived by the parties as provided in
24 subdivision (b).

25 (2) There shall be no waiver of disqualification if the basis therefor is either of the following:

26 (A) The judge has a personal bias or prejudice concerning a party.

27 (4) If grounds for disqualification are first learned of or arise after the judge has made one or more rulings
28 in a proceeding, but before the judge has completed judicial action in a proceeding, the judge shall, unless
29 the disqualification be waived, disqualify himself or herself, but in the absence of good cause the rulings he
30 or she has made up to that time shall not be set aside by the judge who replaces the disqualified judge.

31 (c) (1) If a judge who should disqualify himself or herself refuses or fails to do so, any party may file
32 with the clerk a written verified statement objecting to the hearing or trial before the judge and setting forth

1 the facts constituting the grounds for disqualification of the judge. The statement shall be presented at the
2 earliest practicable opportunity after discovery of the facts constituting the ground for disqualification.
3 Copies of the statement shall be served on each party or his or her attorney who has appeared and shall be
4 personally served on the judge alleged to be disqualified, or on his or her clerk, provided that the judge is
5 present in the courthouse or in chambers.

6 170.4. (a) A disqualified judge, notwithstanding his or her disqualification may do any of the following:

7 (3) A party may file no more than one statement of disqualification against a judge unless facts
8 suggesting new grounds for disqualification are first learned of or arise after the first statement of
9 disqualification was filed. Repetitive statements of disqualification not alleging facts suggesting new
10 grounds for disqualification shall be stricken by the judge against whom they are filed.

11 This Challenge seeking to disqualify trial judge Jon Tigar convincingly brings forth the case for
12 judicial recusal under Code of Civil Procedure sections 170.1- 170.4 above, specifically 170.1, subdivision
13 (a)(6)(C). n1 (Stats. 1984, ch. 1555.) This challenge touches upon the core of the judicial process -- the
14 appearance of objectivity of the decision maker -- requiring a careful balancing of the affected interests. The
15 court must consider both the public's right to be assured of the fair, but yet efficient, resolution of disputes
16 and the parties' right to a decision based upon the court's objective evaluation of the facts and law. (See *In*
17 *re United States* (1st Cir. 1981) 666 F.2d 690, 694.) The tension between the appearance of fairness and
18 efficiency should be self-evident. The difference between the appearance of fairness generally and the
19 perception of fairness as seen by a party or his or her counsel should also be self-evident. With ever
20 mounting litigation, judicial disqualification has and will undoubtedly continue to increase as will those of
21 judicial disqualification during trial. This case is ripe for such ruling as you must understand judge Tigar's
22 conduct, actions and personality "make a world of difference when it comes to rulings on evidence, the
23 temper of the courtroom, the tolerance for a proffered defense, and the like." (*Chandler v. Judicial Council*
24 (1970) 398 U.S. 74, 137 [26 L.Ed.2d 100, 137-138, 90 S.Ct. 1648] (dis. opn. of Douglas, J.))
25 Nonetheless the proper performance of judicial duties does require a judge to withdraw from a matter every
26 time an advocate positively asserts the objective and fair judge *appears* to be biased. The duty of a judge to
27 sit where not disqualified is equally as strong as the duty not to sit when disqualified. (See *Laird v. Tatum*
28 (1972) 409 U.S. 824 [34 L.Ed.2d 50, 93 S.Ct. 7] On the facts of this case, you must grant this Challenge.

29 **4. Section 6068**

30 Section 6068 obliges a judge and attorney to "support the Constitution and laws" (subd. (a)) and "maintain
31 the respect due to the courts of justice and judicial officers" (subd. (b)). Under section 6106, "any act
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1 involving moral turpitude, dishonesty or corruption, whether the act is committed in the course of his
2 relations as an attorney or otherwise, . . . constitutes a cause for [a lawyer's] disbarment or suspension."
3 (Italics added.) The courts conclude that, under certain circumstances, an attorney's disobedience, even when
4 he acts in a nonprofessional or personal capacity, violates section 6068, subdivisions (a) and (b), and
5 constitutes "moral turpitude" within the meaning of section 6106.

6 Multiple acts of misconduct involving moral turpitude and dishonesty warrant disbarment. (See std. 2.3,
7 Stds. for Atty. Sanctions for Prof. Misconduct, div. V, Rules Proc. of State Bar; compare Dixon v. State
8 Bar (1982) 32 Cal.3d 728, 739, 740 [187 Cal.Rptr. 30, 653 P.2d 321].) Tigar's pattern of serious, recurrent
9 misconduct is a factor in aggravation. (Garlow v. State Bar (1988) 44 Cal.3d 689, 711 [244 Cal.Rptr. 452,
10 749 P.2d 1307].)

11 It is evident that Tigar has no appreciation for the fair, just and proper administration of justice, nor equity
12 under the law and is totally at odds with the judicial and legal professional standards of this state and
13 country. Disqualification as a judge and disbarment as an attorney would thus be necessary to protect the
14 public, and preserve confidence in the profession, and maintain high professional standards. (Ainsworth v.
15 State Bar (1988) 46 Cal.3d 1218, 1235 [252 Cal.Rptr. 267, 762 P.2d 431].)

16 Dishonest acts in court are a basic violation of a judge or attorney's role, oath, and duties. (Bus. & Prof.
17 Code, § 6068, subds. (a), (b), (d); State Bar Rules Prof. Conduct, rule 7-105.) We have condemned such
18 conduct in the strongest terms. (E.g., Davis v. State Bar (1983) 33 Cal.3d 231, 239-240 [188 Cal. Rptr.
19 441, 655 P.2d 1276]; Olguin v. State Bar (1980) 28 Cal.3d 195, 199-200 [167 Cal. Rptr. 876, 616 P.2d
20 858].)

21 **5. The Canons of the Code of Judicial Conduct**

22 In the Canons of the Code of Judicial Conduct. Although these canons do not have the force of law or
23 regulation, "they reflect a judicial consensus regarding appropriate behavior" for California judges. (
24 Kloepfer v. Commission on Judicial Performance (1989) 49 Cal. 3d 826, 838, fn. 6 [264 Cal. Rptr. 100,
25 782 P.2d 239, 89 A.L.R.4th 235]; see Cannon v. Commission on Judicial Qualifications (1975) 14 Cal. 3d
26 678, 707, fn. 22 [122 Cal. Rptr. 778, 537 P.2d 898].) The failure of a judge to comply with the canons
27 "suggests performance below the minimum level necessary to maintain public confidence in the
28 administration of justice." (Kloepfer v. Commission on Judicial Performance, supra, 49 Cal. 3d at p. 838,
29 fn. 6.)

30 An impartial and independent judiciary is indispensable to our legal system. Of equal importance is public
31 confidence in the independence and integrity of the judiciary, because the effective functioning of our legal
32

1 system is dependent upon the public's willingness to accept the judgments and rulings of the courts. (Cal.
2 Code Jud. Conduct, com. to canon 1.) Plaintiff argues that Tigar's conduct and actions described herein
3 violate Cannons 1, 2, 2A, 2B(2), 3B(2), 3B(4), 3B(5) and 3B(8) and the court can not allow this type of
4 willful misconduct in office and conduct prejudicial to the administration of justice (moral turpitude,
5 corruption, and dishonesty) that brings the judicial office into disrepute. (Art. VI, § 18, subd. (c).)

6 **6.** This Challenge sets forth new and different material facts, evidence and questions relevant to the
7 disqualification of Judge Tigar since his unsigned Order Striking the Challenge For Cause on July 6,
8 2007(attached to Plaintiff's Challenge of July 18, 2007 under **Exhibit A**); the filing of his answer to the
9 first challenge for cause (Answer attached to Plaintiff's Challenge of July 18, 2007 under **Exhibit A**); and
10 the Challenge filed on July 18, 2007 that addressed concerns that Tigar serves in several capacities in the
11 State and Northern California Judicial system, he may well be associates, friends, and acquaintances with
12 related parties, and his fathers potential impact upon this case with his associates, friends, and acquaintances
13 with related parties(attached under **Exhibit A**) his answer to the challenge filed July 24, 2007 (attached
14 under **Exhibit A**); and the hearings that have taken place before Tigar on February 1, 2008, January 11,
15 2008, September 7, 2007, August 31, 2007, July 30, 2007, July 6, 2207 and April 30, 2007(See All Hearing
16 transcripts attached under **Exhibit B in two volumes**). Plaintiff is convinced that a fair and impartial trial
17 could not be had before this judge now or in the future.

18 This case was scheduled to begin trial on February 15, 2008, which is the date this Challenge should be
19 served upon Tigar. Tigar has set this matter for continued pre trial readiness to February 25, 2008,
20 canceling the appearances scheduled for February 15, 2008. With Plaintiff having filed and served a Writ
21 on February 4, 2008 in this matter that still awaits resolution, this Challenge will include the conduct and
22 action of Tigar up to the filing of that motion and I will begin with the most recent activities first.

23 **7.** On February 1, 2008 at 9:00 AM in Department 21 Judge Jon Tigar held a Trial Readiness
24 Conference with the parties allegedly for the purpose of discussing the status of the case to determine when
25 the actual trial will begin under compliance with rule 4.6.

26 Plaintiff made his standing objection to Tigar sitting in this case, announced that his appeal is to be filed on
27 the next business day, and states that Defendants had served their documents one day earlier as per (local
28 Rule 4.6 and Local Rule 3.35) Plaintiff argued that it was unfair and improper for the court to proceed with
29 ruling on these motions when Plaintiff had not seen the documents and as an in pro per plaintiff had no
30 time to prepare to respond to these motions due to the defendants gamesmanship in the lateness of their
31 service of the documents, that as a professional courtesy the matters should be continued especially when
32 they had plaintiff's documents for over three weeks. Plaintiff is not a lawyer, has his continuing

1 responsibilities to his family including five grandchildren, his business, his community and his social,
2 philanthropic, civil and educational duties and services he is and has been involved in for forty years in
3 some cases. Tigar states that until he receives a notice from the court of appeals for a stay he will proceed
4 with the matter and there is no time limit on serving and filing limine motions.

5 Tigar then proceeds with Plaintiff's limine motion #1, Plaintiff objected to Tigar hearing the limine motion,
6 then argued that there is no way that any expert can prove that any incident in 1991 can be determined as
7 the cause of any contamination in 1997 or 1999, then Tigar denies it stating that the 1991 backup can come
8 into trial, as it would not be confusing to a jury. Plaintiff objected to ruling on the limine motion.

9 Tigar proceeds with Plaintiff's limine motions #2- Plaintiff objected to Tigar hearing the limine motion,
10 **Tigar threatens Plaintiff with contempt for exercising his legal protective right to object as**
11 **slowing down the court,** then Tigar deferred ruling on motion. Tigar also noted for the parties that the
12 Judicial Council is in the stage of sending down new laws regarding the investigation of insurance claims
13 and the legal effect it has on cases.

14 Tigar proceeded with Plaintiff's limine motions #3 to #11 in bulk as they were opposed by defendants with
15 one opposition for under their recession theory, - Plaintiff objected to Tigar hearing the limine motion,
16 argued that defendants did not have the right to recision, Tigar categorically denied all nine motions on the
17 basis of defendants defense theory of recision and he made reference to the objection of the Judicial
18 Council on limine motions with wording such as that used by Plaintiff. In the span of ten minutes Tigar, in
19 his self grandiose way, had twice touted his "elite status" as an insider in the Judicial Council. Plaintiff
20 objected to ruling on the limine motion.

21 Tigar proceeded with Plaintiff's limine motions #12- Plaintiff objected to Tigar hearing the limine motion,
22 Tigar denied the motion and Plaintiff objected to ruling on the limine motion.

23 Tigar went into Defendant's limine motion #1- Plaintiff objected to Tigar hearing the limine motion, again
24 argued that it was unfair and improper for the court to proceed with ruling on these motions when Plaintiff
25 had not seen the documents due to the defendants gamesmanship and the matters should be continued and
26 that it was inappropriate for Plaintiff to testify by asking questions of himself, Tigar granted that motion.

27 Tigar proceeded with Defendant's limine motion #2- Plaintiff objected to Tigar hearing the limine motion,
28 Tigar then deferred ruling on the inspection of Plaintiff's home. Plaintiff questioned the fairness and
29 reason behind deferring the ruling on this motion but denying Plaintiff's motions in bulk and ignoring the
30 suggestion that his motions be continued until he could competently respond due to defendants
31 gamesmanship with their serving of the documents. Tigar states that he could rule against Plaintiff
32 immediately if I did not want him to defer the ruling, Plaintiff was puzzled with the comment that Tigar

1 could rule against Plaintiff at that time if Plaintiff did not want him to defer the ruling but Tigar did not
2 address the merits of ruling against Plaintiff based on the pleadings. He clearly expressed that though the
3 argument was compelling enough for him to consider, HE COULD rule against Plaintiff, not because the
4 argument lacked merit, MERELY BECAUSE HE WANTED TO! Plaintiff again objects to ruling on the
5 limine motion, and **Tigar threatens Plaintiff with contempt for his objections to the limine motions**
6 **as slowing down the court and threatens Plaintiff that he must not mention Tigar's perjury to**
7 **the jury during the trial or he will be in contempt. Plaintiff responded with the fact that his**
8 **objections just as his speaking the truth of Tigar's lying under oath would not be silenced by**
9 **threats of contempt as Plaintiff is not making some groundless attack upon Tigar and again**
10 **challenged Tigar to meet him in any venue, forum, tribunal etc. and Plaintiff would prove Tigar**
11 **has lied under oath, committed perjury, been dishonest, deceitful, committed prejudicial**
12 **misconduct, etc.** Tigar's constant insidious threats of contempt is a dangerous premise upon which a fair
13 and impartial judge would build any trust and reasonable expectation of justice or faith in his ability to rule
14 and preside in any matter. The importance of a plaintiff to object in a trial or any matter and the denial and
15 full foreclosure of that protective right by Tigar is a lethal assault on Plaintiff's due process and civil rights.
16 The law books are full of case where a party failed to object to an event in court, a ruling, admission, etc.
17 and as a result implied that they had waived that right to protection from that event or error that could have
18 protected their rights and interests. Tigar here attempts to FORCE Plaintiff at the threat of contempt to
19 forego any rightful objection and in the process waive any defense to his ruthless actions as the defendant
20 deputy defense counsel judge. More startling, having made the **threat that Plaintiff must not object or**
21 **mention his perjury to the jury or he will be in contempt**, Tigar never once responded to any of the
22 objections.

23 Tigar moved on to Defendant's limine motion #3- Plaintiff objected to Tigar hearing the limine motion,
24 Tigar granted the motion and Plaintiff objected to ruling on the limine motion.
25 Tigar proceeds to Defendant's limine motion #4- Plaintiff objected to Tigar hearing the limine motion,
26 Tigar granted the motion and Plaintiff objected to ruling on the limine motion.
27 Tigar proceeds to Defendant's limine motion #5 - Plaintiff objected to Tigar hearing the limine motion,
28 Tigar granted the motion **ruling ALL and Everything relative to the Insurance Appraisal is**
29 **excluded from the trial as if it never happened** and stated that the ruling from Judge Roesch ending the
30 appraisal in March 2007 specifically stated that. Plaintiff request to speak and Tigar says that "I have
31 already ruled on that matter!" objected to ruling on the limine motion.
32

1 Tigar proceeds to Defendant's limine motion #6- Plaintiff stated that the ruling on the last motion was in
2 error and that the order from Judge Roesch only ended the requirement to return the parties to appraisal not
3 denying the use of the conduct and documents from the appraisal. Plaintiff further objected to Tigar hearing
4 the limine motion, argues the lack of money provided by defendants and Defendants argued that their
5 alleged \$136,000 spent on this claim was sufficient to repair the home. Tigar argues that he is not
6 convinced the alleged \$136, 000 is adequate when Plaintiff says "what \$136,000?" and as Tigar proceeds
7 to explain his view he says to Plaintiff, "hold on your winning here, I know your penchant for football, I'm
8 going to give you the ball with 6 seconds left on the clock for you to score". Plaintiff stated that "I
9 understand what your saying, I just don't know about the \$136,000". Tigar denies the ruling on
10 proclaiming the house a "sick home" and payment of \$136K being sufficient to pay all repairs.

11 But what was most interesting in the exchange was Tigar's mention that "he knew" Plaintiff's (penchant)
12 compassion for football. It is true and a fairly well known fact that Plaintiff is a successful businessman
13 and respected as the first Super Agent in the sports and entertainment world. It is also true and well
14 established that Plaintiff has worked with many Superstar players from the National Football League. It is
15 also true and well established in this case that Plaintiff has worked with the National Football League and
16 has a gold Cross pen set awarded to him by the NFL for his work with the Super Bowl. It is also true and
17 well established in this case that Plaintiff has some valuable signed memorabilia from the Super Bowls and
18 other significant sporting events. It is also well established that Plaintiff, even at 57 years of age is still very
19 active in playing sports, particularly competitive basketball against players much, much younger, but he is
20 not known to be compassionate nor have a penchant for football. Tigar has some bad reconnaissance but
21 none the less he has some and that is the problem. What has Tigar sought to find out about Plaintiff? Why?
22 And how? It is clear by this quip on his behalf that this his sly little way of letting Plaintiff know that "I
23 know something about you and I have done my due diligence on you". However in revealing this he admits
24 more wrongdoing by conducting this improper and illegal search into Plaintiff and his background without
25 cause or authority and at the very least has again had some questionable if not illegal ex-parte
26 communications regarding Plaintiff, even if through a third party. This speaks volumes about Tigar's
27 conduct and portends very odious activity. But for Plaintiff this resulted in an affirmation of a signal that
28 Tigar has been previously been advised of, that Plaintiff has been warned not to trust Tigar, he is a "snake"
29 whom will pretend to comprehend and to be going along with your litigation theory only to turn on you.
30 This was brought out in an earlier challenge filed by Plaintiff against Tigar.

31 Tigar proceeds to Defendant's limine motion #7- Plaintiff objects to Tigar hearing the limine motion, as
32 that motion is granted, wherein Plaintiff can't mention CSAA reorganization, Tigar states he's ruling on

1 these limine motions in a vacuum- he stops. Plaintiff states he just ruled on 18 limine motions in a vacuum,
2 but denied Plaintiff's suggestion that it be continued for his limine motions.

3 Tigar then states that he has a question regarding Plaintiff's witness list and identifies Leo Dorado from the
4 witness list and asks if that is the Alameda County Superior Court judge. Plaintiff responded "the very
5 same" and immediately Tigar tries to justify his need to contact judge Dorado regarding his testimony and
6 Plaintiff, trying to prevent any implied witness tampering by Tigar, stated twice to Tigar that "we will
7 arrange that between ourselves". Unable to finesse his way to legally cause the desired improper ex-parte
8 communication with Judge Dorado, Tigar rules that Plaintiff must now make an offer of proof on each
9 witness on the witness list including length of testimony and importance and Tigar may use whatever
10 criterion he choses to decide if they can testify.

11 Tigar further orders Plaintiff to have ALL exhibits numbered and submitted to defendants by February 15,
12 2008 as the beginning of trial as per local rules. Plaintiff questioned why because the trial was not to begin
13 that date, Tigar confirms that the local rules state that the exhibits must be numbered before trial and if
14 Plaintiff did not have the list to the defendants by 5:00 pm on February 15, that he would order any
15 sanctions that he felt was appropriate including denying Plaintiff's exhibits. There is NO such local rule,
16 not rule 4.6 or 3.35 that specifically state that all trial exhibits MUST be numbered BEFORE trial and a list
17 of same provided to the defendants before trial. This is another example of Tigar misapplication of the law
18 and justice in an effort to punish Plaintiff and cripple his case into a predetermined result.

19 **8.** On January 3, 2008 plaintiff sent a fax to Department 21 to request and reserve a hearing date to
20 present motions to vacate the orders dated July 30, 2007; August 31, 2007 and September 7, 2007 of the
21 Alameda County Superior Court before Judge Jon Tigar. **(See orders and letter under Exhibit "C")**
22 After getting no response, on January 7, 2008 plaintiff called the department and was told by the clerk that
23 they had received the request but do not fax replies. They obviously do not call back either. Plaintiff has
24 informed later that the only date for a hearing would be February 28, 2008, after the scheduled trial date of
25 February 15, 2008 and was given the date of January 11, 2008 for an Ex-Parte hearing for an order
26 shortening time to file the motions on the matter. Plaintiff then faxed letters to the opposing parties on
27 January 9, 2008 informing them of the ex-parte hearing on the motions. **(See letters under Exhibit "C")**
28 The above hearing that took place on January 11, 2008 and was ruled on by Judge Tigar within minutes.
29 He began the hearing by stating that he knew nothing about the ex-parte motions and was unaware of there
30 being any problem with the orders. Plaintiff stated that the orders had a number of errors and should be
31 vacated. Tigar mentioned that he knew one of the orders (the July order) had been appealed. Plaintiff
32

1 responded that the order appealed was recently ruled on, the notice dated December 17, 2007 was mailed
2 while Plaintiff was away and he had received the notice upon his return, upon receipt Plaintiff then faxed
3 and called the court to file the ex-parte motions. Plaintiff reminded Tigar that plaintiff had filed a status
4 report regarding that unintelligible July order in August 2007 (**See report under Exhibit “C”**) and then
5 filed the formal appeal days later(**See notice of Appeal under Exhibit “C”**) , so Tigar had to be aware of
6 the problems with the orders and sought to avoid appellate review of the order by inappropriately titling it a
7 “discovery motion”.

8 Tigar then asked if the ex-parte motions could be considered motions for reconsideration. Plaintiff, aware
9 of Tigar’s reprehensible tactic of positioning motions by entitling them as a motion which conveniently
10 provides for his disposal of them, argued that this was not a motion for reconsideration, it is a motion to
11 vacate or modify the orders, based on their being oppressive, unconscionable, prejudicial, incongruous to
12 the proper administration of justice, a clear abuse of process and a gross miscarriage of justice. Tigar stated
13 that it could be considered a motion for reconsideration and if so the time limit is 30 days, and they are
14 untimely filed. Plaintiff argued that these were not motions for reconsideration, they were motions to vacate
15 which have a six month filing time and the purpose, intent and time frame for such filings were completely
16 different from that of a motion for reconsideration. Plaintiff further stated that Tigar could consider them
17 anything he wanted and was going to do so anyway. Tigar stated that the August and September orders
18 plaintiff sought to vacate were also beyond the 30 day time limit for motions for reconsideration. Plaintiff
19 again argued that this was not a motion for reconsideration, it is a motion to vacate or modify the orders,
20 based on their being oppressive, unconscionable, prejudicial, incongruous to the proper administration of
21 justice, a clear abuse of process and a gross miscarriage of justice. Plaintiff argued that Tigar purposefully
22 withheld signing and mailing the orders of August 31 and September 7, 2008 until such time as he knew
23 Plaintiff was away for several months and unable to respond to the orders or any litigation! Plaintiff
24 reminded Tigar that he and the court was aware since June 2007 that plaintiff would be in retreat from
25 September 11, 2007 until the end of the year. Tigar intentionally withheld the orders and mailed them the
26 day he knew plaintiff began retreat. Tigar then denied the ex-parte motions as motions for reconsideration,
27 not motions to vacate for which they were, for being untimely filed.

28 Plaintiff called and came to Department 21 on January 15, 2008, came again on January 16, called and
29 came again on January 17, called again on January 18, called and faxed again on January 22, called and
30 came again on January 23, 2008. On these five previous days and seven occasions that Plaintiff called and
31 came to the court there was no mention of the orders from the January 11 hearing though Plaintiff inquired
32 about them.

1 Finally, Plaintiff called and faxed a letter to Department 21 on January 22, 2008 requesting the orders
2 because he had not received the courts orders from the ex-parte hearings on January 11, 2008. (**See letter**
3 **under Exhibit “C”**) Plaintiff called the court clerk and was later told over the phone that the orders had
4 been mailed and were available on the website. Plaintiff informed the clerk that he had been unable to find
5 the orders on the website and asked when they had been mailed out. Plaintiff was asked to be put on hold
6 while the clerk checked the website for the information. The clerk came back to the phone later and
7 informed plaintiff that she could not get the file to load from the internet and that she would mail Plaintiff
8 copies of the orders. Plaintiff requested that she include the old proof of service that was allegedly filed
9 with the orders, if there was one, that shows when the orders were mailed. The clerk asked why plaintiff
10 needed it and plaintiff explained that not only could he not get the nonexistent orders, but that the appeals
11 court does not work in such a way that he could download an order from the internet and use it in an
12 appeals without the proof of service and a true copy of the filed stamped order. Plaintiff explained that the
13 appeals time begins to run from the date of the issuance of the signed filed stamped order and date it was
14 mailed to the parties. If Tigar issued the orders on January 11, 2008 and withheld the orders for ten days,
15 plaintiff would have effectively been excluded from filing a Writ appeal on the orders with the trial date in
16 two weeks! This would waive plaintiff’s right of a fair trial, his civil rights and right to due process.
17 The next day on January 23, 2008 Plaintiff went to Department 21 and was told the orders would be ready
18 and it was explained to him that there would be another proof of service issued with the mailing of these
19 orders to be sent out that day. Since these orders were never available on the court website before January
20 22, 2008 , did not have a proof of service before that date, were dated January 16, 2008, were filed stamped
21 January 22, 2008 and mailed on January 23, 2008; it is clear that judge Tigar has again engaged in abuse of
22 process, the improper administration of justice and may have back dated the orders and purposefully
23 withheld them and the other orders of August 31 and September 7, 2008 until such time as he knew
24 Plaintiff was away and unable to respond to the orders or any litigation, effectively excluding and
25 prohibiting Plaintiff from filing a Writ appeal, waiving plaintiff’s right to a fair trial, his civil rights and right
26 to due process!

27 9. On September 7, 2007 at 9:00 AM in Department 21 Judge Jon Tigar heard Fletcher C. Alford’s
28 motion to quash his Subpoena Duces Tecum for Trial Appearance.
29 Plaintiff continued his standing objection to Tigar ruling in this matter and has established that he could get
30 a fair hearing or a trial before him. (See Ex B Hearing transcript P14L18) Plaintiff argues as encompassed
31 in the separate statement that he submitted with the court he was reiterating these things because there are
32 some things that Tigar may not have gleaned, and wanted to be sure that Tigar understood the importance of

1 them because relevance and privilege was an issue for Tigar, and that there was no privilege as a result of
2 the parties actions and the way in which it occurred. Additionally there is no other way that Plaintiff could
3 adduce this testimony in evidence and was having to proceed through other options to exhaust this issue.
4 (See Ex B Hearing transcript P19L9) Plaintiff states Tigar has some issues about the relevance of these
5 illegal acts support all his causes of actions and were perpetrated under the guise of the insurance contract
6 with the defendants intervening, and are examples of their bad faith, the misrepresentations, and the
7 business and professions code violation as an abuse process and there is no other way for Plaintiff to
8 introduce evidence and testimony. (See Ex B Hearing transcript P23L25) Tigar says “Mr. al-Hakim, I took
9 into account what you said in your motion. Your remarks this morning I think elaborate on the points that
10 you made in your motion. The court takes the crime fraud exception to the attorney-client privilege as well
11 as the privilege itself very seriously, but you didn't succeed in establishing that section applies (See Ex B
12 Hearing transcript P24L11) and granted Fletcher C. Alford’s motion to quash his Subpoena Duces Tecum
13 for Trial Appearance because it is necessary to protect him and his firm from unreasonable and oppressive
14 demands citing Plaintiff did not show good cause for the production of the matters and things and did not
15 set forth in detail the materiality (See C.C.P. 1985(b)); did not identify with any specificity the documents
16 or information in Alford’s possession or control that fall outside the attorney-client privilege or work
17 product doctrine and did not explain why they can not be obtained from another source nor that the crime-
18 fraud exception or any other exception should apply; and ordered plaintiff to pay \$1,375 sanctions before
19 trial. Also during the hearing on this motion as well Tigar stated that the information sought concerns the
20 al-Hakim v. Rescue Industries case # C-821885 is not relevant to this action.
21 This order is dated September 9, and also was executed by stamp on September 10, 2007 by Clerk Pam
22 Williams. Again, as a direct result, it was not possible for the Clerk to execute the order, file it, place a copy
23 in the U. S. mail, for the Postal Service to deliver it and plaintiff to have received the order that same day
24 while the court was aware since June 2007 that plaintiff would be in retreat on September 11, 2007 until the
25 end of November and away again from the middle of December and unable to respond to litigation.
26 **10.** On August 31, 2007 at 9:00 AM in Department 21 Judge Jon Tigar heard Plaintiff Abdul-Jalil al-
27 Hakim’s motion for the issuance of court ordered subpoenas, or in the alternate, to issue and order
28 deposition subpoenas; and for defendants to disclose pertinent contact information for their Trial
29 Witnesses.
30 At the beginning of the hearing Plaintiff offered to the court that in July defense counsel and Plaintiff made
31 an appearance before Presiding Court Judge Northridge regarding this case and concluded it probably
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1 would not go to trial before the end of the year, and probably more reasonably will happen in early
2 January(See Ex B Hearing transcript P1L22) as Plaintiff's annual retreat and calendar is going to be fairly
3 busy in the middle of December. (See Ex B Hearing transcript P2L22)
4 Plaintiff expresses the same objections and complaints regarding so-called discovery motions as a
5 continuing effort by Tigar to cover up his lies under oath and the perjury, the deception in all the rulings
6 and casting Plaintiff as a liar. (See Ex B Hearing transcript P4L26-P6L10) Tigar artfully **characterize the**
7 **motion as an effort to reopen discovery** and his order is yet another example of the continuing
8 misconduct and corrupt conduct in the blatant bias and prejudice that Tigar has shown towards Plaintiff in
9 this case and that he is heightening his consuming rule as a defendant in this case in attempting to hide,
10 ignore, and defend your own many transgressions in proffering and advocating defendant's litigation
11 theory. Tigar characterize this motion for an order compelling trial testimony as an effort to reopen
12 discovery and take depositions is another complete unadulterated lie and deception on his part and is an
13 abomination of the fair and proper administration of justice. It's clear, the truth, fairness, and justice are
14 things Tigar is incapable of. The motion to compel the trial testimony and trial subpoenas were already
15 issued and served, so this motion was merely to compel those individuals who have been evading and
16 avoiding the testimony in this case for years. It wasn't an effort to reopen discovery. It was only offered to
17 take depositions that the court so ordered as an alternative justice and judicial economy to prevent long,
18 arduous, needless trial testimony full of surprises in a long trial. plaintiff was trying to facilitate some
19 judicial economy by allowing depositions if the court decided that was the best operation. It's Tigar's
20 discretion, not Plaintiff's, who established these people have been subpoenaed, they're going to testify, they
21 are going to be in court so rather than make a 30-day trial a 90-day trial or longer, we could easy schedule
22 depositions and we have time to do that. (See Ex B Hearing transcript P4L26-P6L10)
23 Plaintiff felt that Tigar has on other occasions in the past as well as will be scene in the future, done as he
24 had that day by characterize this as a motion to reopen discovery just so that he could easily deny it, it
25 avoids appellate review, he can also issues sanctions, and did denied it on that basis, claiming discovery was
26 closed in February of 2003. Yet Plaintiff provided an order from Presiding Court Judge George Hernandez,
27 that in March 2005 over two years later that he reopened discovery and it has been reopened since that time.
28 And equally as convenient, you seem to ignore it because it opposes your preconceived intent to deny this
29 motion. (See Ex B Hearing transcript P6L11)
30 Tigar claimed that Plaintiff's issues raised that require depositions only pertain to issues in this case which
31 has no relevance. All the many issues relative to this case relate to the defendant's acts and misconduct who
32

1 intervened in this matter supposedly to protect Plaintiff, their insured, instead they committed fraud upon
2 the state and the court, spoliation of evidence, subordination of perjurious testimony, and unclear hands
3 among other things and participated in a defense litigation against Plaintiff. They did so in an attempt to use
4 the verdict against Plaintiff as res judicata. They even intend in their opposition in this motion that it was
5 their intent to do so and will ask you to grant them a motion in limine to that effect. If it wasn't relevant, they
6 would not have mentioned it nor taken the risk they did to prevail to only be caught in their actions. (See Ex
7 B Hearing transcript P6L20) Plaintiff stated that the relevance is so obvious that you would have to be a
8 defendant in a position of a judge to make such an
9 asinine statement in an attempt to get away with it before the court. The relevance of their committing these
10 illegal acts towards all of the causes of action and were perpetrated under the guise of the insurance contract
11 are examples among other things of their bad faith and violation of business and professions code as an
12 abuse of process.(See Ex B Hearing transcript P7L7) Plaintiff proclaims Tigar's order is just another
13 example of the court's inability, his lies under oath, continued deception, that Tigar is incompetent, an insult
14 to the bench, that this is why he cannot rule in this matter, and Plaintiff is certain that he could never have a
15 fair trial before him and he will never serve in any matter that Plaintiff will be involved in.(See Ex B Hearing
16 transcript P8L16) Tigar then begins crouching his position for contempt by addressing the members in the
17 audience that he felt compelled to observe on the record that Plaintiff's remarks, tone and content are
18 contemptuous under Code of Civil Procedure Section 1209 (a) (1) as Plaintiff has accused the court of bias,
19 perjury, lying, and incompetence, and that everything about the tone and content of Plaintiff's remarks with
20 few exceptions were not addressed at all to the merits of motion is in violation of that subsection of section
21 1209 of the Code of Civil Procedure, but also nothing Plaintiff said tended to interrupt the course of the
22 judicial proceedings. Tigar warned Plaintiff that when the trial commences and there is a jury present, the
23 court will no longer be able to ignore remarks like those and that he takes very strongly his obligation to
24 hear every proceeding in which he is not disqualified and his obligation under each of the ethical codes that
25 govern judges in the state of California. He again taunts Plaintiff with the pompous air of privilege and
26 superiority when he again laughingly states Plaintiff has filed more than one challenge against him, (See Ex
27 B Hearing transcript P9L1) Tigar seeks to continue laying the groundwork for contempt charges and
28 further shield himself from having to answer the charges and admit his lies and deception by stating
29 Plaintiff's remarks are designed to interfere with the orderly administration of the proceedings or to cause
30 him to become biased against Plaintiff in some way that will allow Plaintiff to get what he wants and
31 announces to the court "I'm pleased to tell you, Mr. al-Hakim, that you are not succeeding." (See Ex B
32 Hearing transcript P10L2) The great diversion in this statement is Tigar's attempt at presenting propriety of

1 his actions and obvious bias. He is right in stating that Plaintiff will never get what he wants because what
2 plaintiff simply wants is TRUTH, FAIRNESS, AND JUSTICE. These are things that Tigar has repeatedly
3 shown he has no concept of when it comes to fulfilling his planned legal lynching and railroading of
4 Plaintiff as the defendant judge in this matter. He merely has to honestly and truthfully respond to the
5 charges and that is the end of that. Tigar can't afford to do something as simple as that because it will
6 further reveal his continued lies and deceit. Plaintiff, refusing to be denied his truth reiterates that the issues
7 captured in his affidavit against Tigar are ALL TRUE and that Plaintiff would meet him at any hearing, any
8 place, and will present the evidence again to him regarding his lying under oath, and Plaintiff will do that in
9 front of the jury as well because that is something a jury needs to know and the truth is not going to
10 evaporate and disappear because Tigar wants it to that these are the facts and will meet Tigar anywhere with
11 the facts, and present him with his documents and own words, as they will speak volumes in testifying
12 against him.(See Ex B Hearing transcript P11L3) It never ceases to amaze even the casual observer of this
13 case how Tigar can claim to take his responsibilities and obligations under each of the ethical codes that
14 govern judges in the state of California when he is repeatedly charged in open court with bias, perjury,
15 lying, and incompetence yet he can stress the seriousness of Plaintiff making these charges and standing
16 behind them to the extent that plaintiff has challenged to meet Tigar in any forum, venue, tribunal and prove
17 his case against Tigar, but Tigar can not and refuses to answer even the simplest of charges. Contempt is a
18 major issue when he wants to threaten and beat Plaintiff over the head with the charges, but it is unimportant
19 when it is time for him to respond to same!

20 Plaintiff expounds to the court that the idea that this could be a discovery motion found by the defendants
21 was very artfully advocated by Tigar. Those things are serious transgressions against the law as anybody
22 could have read those papers and saw there was no confusion, it's an alternate option and that Plaintiff
23 would not backdown from the truth in saying “the truth is not going to go away, your Honor. You can
24 believe that.” (See Ex B Hearing transcript P11L28)

25 The matter was taken under submission and Tigar later issued an order dated September 4, 2007 denying
26 plaintiff's motion and ordered him to pay \$1,140 sanctions to Real Parties defendants by September 15,
27 2007. The motion was denied for the issuance of trial subpoenas because Plaintiff was not required to file a
28 motion to subpoena witnesses for trial (See C.C.P. 1985(c), 1986); the alternate for deposition subpoenas
29 and disclosing witnesses pertinent contact information because discovery is closed and the information
30 sought concerns the al-Hakim v. Rescue Industries case # C-821885 is not relevant to this action.

31 Further, though the order dated September 4, it was executed by stamp on September 10, 2007 by Clerk
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1 Pam Williams. As a result of this, it was not possible for the Clerk to execute the order, file it, place a copy
2 in the U. S. mail, for the Postal Service to deliver it and plaintiff to have received the order that same day
3 while the court was aware since June 2007 that plaintiff would be in retreat on September 11, 2007 until the
4 end of November and away again from the middle of December and unable to respond to litigation.

5 **11.** On July 30, 2007 at 9:00 AM in Department 21 Judge Tigar heard Plaintiff's Abdul-Jalil al-Hakim's
6 motion to augment and amend his Retained Expert Witness List and Declaration and a motion to vacate and
7 set aside a prior ruling of the court regarding an appraisal of the underlying property. Plaintiff object to
8 Tigar's presence in this case and stated one of the issue discovery puts Tigar's lying under oath squarely
9 into the cross hairs of this issue. Plaintiff pointed out in paragraph 12 of Tigar's verified answer, that's
10 under penalty of perjury, he made no mention in regards to the discovery issues and the transcript Tigar
11 presented demonstrate that statement is not accurate(See Ex B Hearing transcript P21L7-28) **Plaintiff**
12 **acknowledges Tigars** threat of contempt as a means to silence him but is adamant that the truth will speak
13 for itself and Tigar's own documents and own writing bear witness against his testimony.(See Ex B
14 Hearing transcript P22L3) Tigar then slanders, humiliates and discredits Plaintiff by announcing in open
15 court that "I'm simply going to say to you that you have many times challenged the authority of the judicial
16 officers of this court including me to preside over this trial". He then taunts Plaintiff with the pompous air
17 of superiority that he has again denied the most recent challenge, and laughingly suggested Plaintiff seek
18 relief from the court of appeal knowing that would be an exercise in futility for Plaintiff. (See Ex B
19 P22L9)Tigar has always flaunted his self perceived **CLOUT** with his intricate, pervasive and expansive
20 involvement in the Judicial and legal community including the Judicial Council and his sitting of the panel
21 that reviews Judicial Challenges for Cause. A clear conflict of interest in that his challenge would be
22 reviewed by another friend and colleague whom would assuredly protect him and cover his transgressions
23 just as Judge Attack did in ignoring the issues as presented by plaintiff. Plaintiff continue with the reading
24 of the transcript demonstrating that Tigar had pretexted his planned charge of contempt and wanted the
25 record needs to reflect that the discovery issues that were being discussing were at issue at the hearing that
26 he lied under oath and they are still at issue now. (See Ex B Hearing P23L6-28) Plaintiff asserted Tigar's
27 dishonesty regarding those issue are directly related to the biased that he suffered from Tigars ruling that
28 day and that Tigar can not assume because he didn't answer or because he ignored the truth that it doesn't
29 exist. The truth is still here that Tigar provided transcripts, that clearly uncover there was conversation about
30 those discovery issues in the same transcript that Tigar denied existed and that has to play into the bias that
31 Plaintiff has suffered. Tigar's perjury and lying under oath directly relates to those discovery issues and
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1 that's why Plaintiff raised them in a good faith attempt to avoid these charges that were of Tigar's choosing.
2 Tigar again tells Plaintiff that "calling a judicial officer -- that accusing a judicial officer of perjury is
3 contemptuous on its face, but I'm not threatening you with contempt. I'm merely noting for the record that I
4 acknowledge that conduct." (See Ex B Hearing P24L6) Here again Tigar is filling the record with the
5 soundbites he needs for any successful appellate review to justify his charge of contempt. What he fails to
6 properly assess is that this challenge is not a "groundless attack" upon him. Plaintiff has presented the
7 truth of the matters and verified those truths with Tigar's own words and writings. The evidence in
8 undeniable and that is just why he refuses to acknowledge those truths and issues he has openly chosen to
9 avoid answering them as if they did not exist.

10 Plaintiff further exposes Tigar's plan and motive of charging him with contempt by establishing that Tigar
11 had already threatened him with contempt but rather "the issue is whether or not the contempt is in what
12 Tigar has done in his own handwriting or whether the contempt is in Plaintiff's exposing it. There is no
13 contempt of Plaintiff revealing the truth. The truth speaks for itself and Tigar's words bear witness against
14 that. Obviously the bias that Plaintiff suffered from Tigar's analysis of this case and rulings are viewed
15 through that prism of bias and it's part and parcel of it. (See Ex B Hearing P24L13) Plaintiff has
16 established that clearly Tigar has made himself a fourth element in this case, and has become a defendant as
17 well. Plaintiff doesn't think the jury needs to hear that, but they have to be addressed in that issue as well if
18 they are going to consider the truth of the matters to be heard and Tigar has at least nine other instances in
19 his verification where the answers were obviously not forthright or just simply open lies. A jury cannot
20 address those issues of the truth of those who are going to be testifying if they cannot address those of the
21 judge. How can Tigar be a guardian of the truth if he is not capable of being honest himself? (See Ex B
22 Hearing P25L16)

23 Plaintiff acknowledges Tigar seems to be positioning things for the benefit of the defendants as their
24 advocate (See Ex B Hearing P26L8) as there's been a series of egregious errors, and Plaintiff had not
25 objected to any rulings that he made at all. Plaintiff's objection has been to the forthrightness of the issues
26 that Tigar failed to address or have addressed in the issues that was presented in the challenge and it's
27 unimaginable that he could expect truth and justice to come out of the issues before Tigar or that he could
28 have a fair trial in front of him. (See Ex B Hearing P27L5) Tigar ordered that Plaintiff was granted leave to
29 augment and amend his Retained Expert Witness List and Declaration to include replacements for David
30 Brier, David Smith and Kevin Dawson. The order further states that On or before August 3, 2007 Plaintiff
31 shall file and serve (by mail and fax) an amended disclosure of retained expert witnesses in compliance
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with C.C.P. §2034.260(c) that contains no more than three(3) new experts witnesses not listed in Plaintiff's previous expert disclosure whose testimony is expected to replace that of David Brier, David Smith and Kevin Dawson. The leave to amend and supplement is conditioned on the following: (a) Plaintiff must make the new experts witnesses available for depositions by Defendants on or before August 17, 2007, unless the parties mutually agree that the depositions may be taken at a later date; and (b) Plaintiff shall pay all expert fees(up to 4 hours) and costs of the depositions of those experts. (See C.C.P. §2034.620.)

12. On July 6, 2007 at 8:45 a.m. Plaintiff Abdul-Jalil al-Hakim entered Department 21 of the Alameda County Superior Court and had a second Challenge for Cause served upon Judge Jon Tigar. At around 9:20 a.m. Defense counsel Steve Barber appeared and was also served. Up to that time Judge Tigar had not made any appearance in the courtroom, there was only one other party there for a hearing and there was no court reporter. Shortly thereafter Tigar emerged from chambers and called the first case of the only other party present. This party had two cases that were heard very quickly. As this matter was being heard another party came into the courtroom and was seated. After the cases were heard, Tigar takes a recess and the newly arrived party reported to the court clerk. Tigar returns to the courtroom and gives the clerk documents which she hands out to defense counsel Barber and myself. The document was his unsigned Order Striking the Challenge For Cause. He is then told of the new case that is present and that case was called. Tigar apologized for missing him in the courtroom and the party apologized for being late. That matter also was very quickly disposed and Tigar took another recess. At about 9:40 a.m. the court reporter comes into the courtroom and shortly thereafter Tigar returns to the bench. He calls our case and proceeds to announce that he has stricken the Challenge For Cause(See Ex B Hearing transcript P12L14) and moves into the matters of the hearing which included a motion for reconsideration of the court's prior order granting Plaintiff's challenge pursuant to Code of Civil Procedure Section 170.6. Tigar granted the motion for reconsideration "Not because new facts or law was stated under Code of Civil Procedure Section 1008, but because using the court's inherent authority under *Le Francois versus Goel*", this court has concluded, looking into the matter, that it was simply wrong. This court was wrong in granting the 170.6, because the court thought that the challenge was timely. I've now concluded that the challenge was not timely."(See Ex B Hearing transcript P13L16) Plaintiff argued that the reasons for striking the Challenge, 1) there was no verification as required by Section 1703- was found on page 15 of the new Challenge, 2) there was no legal basis for disqualification in the new Challenge- Plaintiff stated there was 14 pages of legal basis for the Challenge, and 3) there were no new facts- which Plaintiff responded that all this new information came after the filing of Tigar's Answer and there was never any reference to his father and possible conflicts in any material submitted before.(See Ex B Hearing transcript P14L12) Tigar could not have read the

1 Challenge thoroughly and responded in haste with his order as all the reasons for the striking of the
2 Challenge are only more indicative of Tigar's continuing dishonesty and not answering the allegations.
3 Tigar responded that he had read the Challenge (See Ex B Hearing transcript P19L14) and it was now after
4 10:00 am. The hearings did not start until late and Plaintiff responded that there were two (actually three)
5 cases that were heard before this one.(See Ex B Hearing transcript P19L18) PLAINTIFF responded by
6 objecting to any ruling of Tigar's on the motion for reconsideration on the disqualification because the
7 imperfections which may have been in the original pleadings were waived by Tigar's earlier ruling, and the
8 defendants actually raised that issue before and Tigar addressed it at that point in time, as he has the
9 discretion to use very broadly. Plaintiff stated that Tigar can strike things that are obviously in the
10 disqualification, can be dishonest about those things, not respond to them and avoid answering them, then
11 Tigar can make whatever decision you choose. (See Ex B Hearing transcript P15L3) Tigar then sets his
12 trap for Plaintiff with his pretext for a charge of contempt by saying " it is contempt to call a judge
13 dishonest".(See Ex B Hearing transcript P15L19) Plaintiff responded that "the contempt is what you have
14 shown me by not answering the allegations or responding to the challenge and continuing to be
15 dishonest!" there was all this new information came after the filing of Tigar's Answer and there was never
16 any reference to his father and possible conflicts in any material submitted before, his involvement with
17 some of the defendants and parties in this. You have not addressed, so there is no way that he could sit there
18 and say there is no new information, that there is no new allegations, and it's not verified. It's obvious by the
19 writings in the order that he was in a hurry to try to strike this in order to proceed with this case as if he
20 have some agenda already. He then in his efforts to make sure the record reflects what he needs to provoke
21 and prompt the charge of contempt says "I want the record to reflect that I paused" before he continued
22 speaking, for emphasis.(See Ex B Hearing transcript P16L18) This was an attempt to demonstrate
23 "patience and restraint" to the reader of the record in his staged plan to charge Plaintiff with contempt.
24 This tactic was purely professional, calculated, and without any emotion is another prime example of
25 Tigar's disingenuous contemptuous conduct for Plaintiff and the People of this County and State.
26 This entire exchange was staged as pretextual by Tigar to entrap Plaintiff into a charge of contempt for
27 stating the obvious truth, Tigar was and remains dishonest, deceitful and a liar! Tigar is filling the record
28 with the judicial "buzz words" to communicate to the judges whom will be reading the record later in
29 support of his planned illicit and illegal charge of contempt against Plaintiff.
30 Tigar has again lied under oath with his unilateral denial of the Challenge as being without verification that
31 is easily found on page 15 of the Challenge, and that he read the Challenge carefully yet missed the
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1 verification for which he struck the Challenge. After it being pointed out to him that there was a verification
2 he did not reconsider his decision, he merely moved on deny Plaintiff his right to an honest answer to the
3 Challenge and recusal of Tigar.

4 The most important result of this hearing is that Tigar has officially made himself a defendant and fourth
5 element in this case. Though currently sitting as the judge in this matter he is now a defendant, co-defense
6 counsel and defense judge ruling in matters that he lied and has been deceitful about and is personally
7 involved in, was represented by the defendants themselves in an action that was brought by the defendants
8 BEFORE HIM to establish HIS right to sit and rule in the same matter that HE is now personally involved
9 in and HE sits in judgment of HIMSELF BEFORE HIMSELF! His representation by the defendants has
10 the unfortunate consequence of making the judge a litigant, obliged to the defense and their counsel by
11 leaving his defense to one of the litigants appearing before him' in the underlying case. (*Kerr v. United*
12 *States District Court, supra, 426 U.S. at pp. 402-403 [48 L.Ed.2d at p. 732].*) Judges should be umpires
13 rather than players. This is a travesty and a mockery of justice with clear conflict while reaks of corruption
14 and collusion!

15 **"That we are to stand by the president, legislature or judiciary; right or wrong is not only**
16 **unpatriotic and servile, but is morally treasonable to the American public." -Theodore Roosevelt**
17 **13. His Order Striking the Challenge For Cause list the three issues as follows:**

18 **A. There Was No Verification as Required by Section 1703.**

19 Presumably his reference here is to section 170.3, not 1703, but if his answer is correct, if there is a 1703
20 and Plaintiff's verification is improper, let us look at the challenge under the penalty of perjury. The
21 challenge served on Tigar clearly has all the required facts and form to adhere to the requirement of section
22 107.3. Even if the statement of disqualification was not verified as required by section 170.3, subdivision
23 (c)(1), it was in the form of a declaration under penalty of perjury which is sufficient. (*Hollingsworth v.*
24 *Superior Court, supra, 191 Cal. App. 3d 22, 25-26.*) Tigar has again lied under oath, in the process, stolen
25 Plaintiff's truth and denied Plaintiff's his civil rights, right to due process, and rightful recusal of Tigar.

26 **B. There Is No Legal Basis For Disqualification In The New Challenge**

27 Plaintiff has presented the facts that Tigar has not only lied under oath many times but failed and refused to
28 answer any other allegations that would further expose the facts that he has not been forthright, and
29 continues to be deceiving, dishonest, while lying under oath. What follows are clear examples of lies under
30 oath and dishonesty and deception on behalf of Tigar that need not be answered by him or any judge ruling
31 on this matter, **you simply can not order a lie to be the truth! A lie will always remain a lie!**

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1 **Judge Tigar is not honest, unbiased, nor competent and must recuse or Plaintiff is entitled to an**
2 **order to disqualify.**

3 California law requires that a judge be honest, unbiased and competent. Plaintiff has presented evidence that
4 Tigar is not honest, unbiased, nor therefore competent and does not meet any of these requirements. If
5 Tigar does not recuse himself, Plaintiff is therefore entitled to an order disqualifying Tigar from acting as
6 the judge in this matter and proceeding to trial in a matter that would be vacated under Code of Civil
7 Procedure §170.3. One of the strongest arguments of section 170.3(d) is the public policy considerations
8 underlying that section. Section 170.3 has the dual purpose of promoting "judicial economy" and
9 "fundamental fairness." (Guedalia v. Superior Court (1989) 211 Cal.App.3d at pp. 1162-1163.) The
10 statute "fosters judicial economy by eliminating the waste of time and money which inheres if the litigation
11 is permitted to continue unabated, only to be vacated on appeal because the subsequent rulings and
12 judgment were declared 'void' by virtue of the erroneously denied disqualification motion." (at p. 1162.)

13 Judge Tigar is guilty of lying under oath, being disingenuous and not being forthright in his answer and
14 must answer the charges that remain from his failed Answer and non response to Plaintiff's Reply.

15 Unfortunately, in the following instances Judge JON TIGAR has lied in his Answer and no other finding
16 need be made by anyone to ascertain the truths of these matters.

17 In OPPOSITION Judge Tigar's Verified Answer That Does Not Address The Allegations Contained In
18 Plaintiff's Statement Avoiding Facts Material or Relevant To The Disqualification And Disputed Issue Of
19 Fact, I now state and allege that:

20 1) In paragraph 8 he denies making the remarks, and states that he does not speak to litigants in that
21 way, however he does not deny speaking to the two women, whom he classified as white, nor what he said
22 that plaintiff found objectionable and felt it necessary to file the challenge. What did he say in the open
23 court room to those parties?. Did plaintiff make up this entire event? Tigar must reveal what truly transpired
24 in that court room, what he said, not attempt to ignore that it happened and hide behind a veil of casting
25 plaintiff as a chronic accuser without cause. This arrogance of being above the law and not having to answer
26 is a prime example of the misconduct and conduct prejudicial of his discrimination through white elitist,
27 privilege and class; the cavalier attitude; the racism and bias which was painfully obvious that he openly
28 exhibited in the courtroom without regard to who heard and saw it. It is clear as well that he feels if he does
29 not mention what he said, he is oblivious to it or it never happened, and no one will know it happened. Tigar
30 can call plaintiff a liar under sworn testimony, yet he can not state what he said to refute what plaintiff has
31 sworn under the penalty of perjury. That is not good enough! Tigar must answer the question of "What
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1 did he say?” to give plaintiff the reason to file the original challenge. Tigar fails to admit or deny Plaintiff’s
2 allegations as required by § 170.3, subd. (c)(3). Plaintiff request that Judge Tigar recuse himself in the
3 interest of justice as per Code of Civil Procedure §170.1(a)(6)(A), and (B) in violation of the law and/or
4 must be disqualified.

5 2) In paragraph 9 he states that those people that were parties to the settlement conference litigation,
6 and he named all six people, could support his version of the event yet only Lynch and Fagerlin were
7 present at the time that he made the comments according to his own statement. This is an out and out lie as
8 it would be impossible for them to witness something that they clearly were not present for! Tigar is again
9 being dishonest and must answer the question of “What did he say?”. Tigar fails to admit or deny
10 Plaintiff’s allegations as required by § 170.3, subd. (c)(3). Plaintiff request that Judge Tigar recuse himself
11 in the interest of justice as per Code of Civil Procedure §170.1(a)(6)(A), and (B) in violation of the law
12 and/or must be disqualified.

13 3) In paragraph 10 he states that plaintiff’s “conclusory allegations are not linked to the actual words
14 he is alleged to have used, and that he did not use those words. This again is an out and out lie as the
15 conclusion drawn by plaintiff is a direct result of the words that Tigar used. There could be no other source
16 from which to derive the conclusion and yet Tigar still never says what he in fact said. Tigar is again being
17 dishonest and must answer the question of “What did he say?”. Tigar fails to admit or deny Plaintiff’s
18 allegations as required by § 170.3, subd. (c)(3). Plaintiff request that Judge Tigar recuse himself in the
19 interest of justice as per Code of Civil Procedure §170.1(a)(6)(A), and (B) in violation of the law and/or
20 must be disqualified.

21 4) In paragraph 11 he states that he never made the comment or asked plaintiff “what are you doing
22 here?”, that “I do not speak to anyone that way in my courtroom”. This again is an out and out lie! Tigar
23 may have suffered a lapse in where he was, forgot that he was in his courtroom, and made the mis-statement
24 since by his own admission, he apparently speaks that way away from the courtroom. Tigar is again being
25 dishonest and must answer the question of “What did he say?”. Tigar fails to admit or deny Plaintiff’s
26 allegations as required by § 170.3, subd. (c)(3). Plaintiff request that Judge Tigar recuse himself in the
27 interest of justice as per Code of Civil Procedure §170.1(a)(6)(A), and (B) in violation of the law and/or
28 must be disqualified.

29 5) In paragraph 12 he states that he is not bias and never made the comments during the hearing
30 alleged by plaintiff with regards to the outstanding discovery disputes and only “required the parties to file
31 trial documents for Rule 4.6 compliance, would hear any motions or other request for relief on Monday”
32

1 and he provides a transcript to verify his sworn statement. This again is an out and out lie! The transcript at
2 Page 12, Line 20 to Page 13, Line 16 clearly discusses some of the outstanding discovery disputes raised
3 by plaintiff and at Page 12 Line 26 Tigar states that “the chances are remote that the court will be
4 addressing any outside discovery disputes” and further at Page 13, Line 4 “ Mr. al-Hakim, your trial is
5 commencing. You’re watching that occur”. This transcript does not accurately reflect the hearing as in
6 Tigar’s explanation at Page 13, Line 9 he further stated that a motion to determine the time to be excluded
7 from the five year statute is only proper when there is a motion to dismiss under that statute. Tigar’s
8 deception is evident by his failure and refusal to answer plaintiff’s charges and attempt to deflect his actions
9 as his request of the parties to file the local rule 4.6 trial documents. The record is clear, Tigar’s lying and
10 arrogance of being above the law and not having to answer the allegation is again a prime example of the
11 misconduct and conduct prejudicial demonstrated by his discrimination through white elitist privilege and
12 class; the cavalier attitude; the racism and bias, bad faith; this suggested denial of due process; suggested
13 obstruction of justice; has exhibited, expressed and shown a fixed opinion; openly displayed favoritism
14 towards certain parties in litigation; openly made accusations of parties conduct; displayed disdain and a
15 mental attitude or disposition of prejudice was painfully obvious as he openly exhibited this in the
16 courtroom without regard to who heard and saw it. Tigar fails to admit or deny Plaintiff’s allegations as
17 required by § 170.3, subd. (c)(3). Plaintiff request that Judge Tigar recuse himself in the interest of justice
18 as per Code of Civil Procedure §170.1(a)(6)(A), and (B) in violation of the law and/or must be disqualified.

20 6) Plaintiff’s case involves charges of racism, religious bigotry, bias, prejudice, as well as motions for
21 disqualification for judges for the same actions exhibited here by judge Tigar of racism, religious bigotry,
22 bias, prejudice, misconduct, conduct prejudicial, Plaintiff is certain that there can be no fair trial before
23 Tigar.

24 In paragraph 13 Tigar states that none of his actions was motivated by nor demonstrate any bias on the
25 basis of religion. To this point Tigar has not admitted that he has committed any actions at all, much less
26 any that might be those of a bigot! Tigar refuses and fails to understand that if you are elitist you are bias,
27 prejudice, racist and a bigot. All these same ignorant schisms stem from the illusion of being “Superior”,
28 not just different, but better than everyone else, and in his case above the law without cause to properly
29 respond to the ever pending question “What did he say?” and how are his actions referenced in Paragraph
30 5 above not clearly indicative of his taint as charged therein?. It is well established that Tigar is being
31 dishonest and again human nature is such that if you will lie you will steal! As a judge when you lie you are
32 stealing someone's truth, their rights, their justice, their life, their equity, their freedom! Tigar will never serve

1 before me. Tigar fails to admit or deny Plaintiff's allegations as required by § 170.3, subd. (c)(3). Plaintiff
2 request that Judge Tigar recuse himself in the interest of justice as per Code of Civil Procedure
3 §170.1(a)(6)(A), and (B) in violation of the law and/or must be disqualified.

4 7) In paragraph 14 Tigar states that he has no personal relationship with any of the judges James
5 Richman, David C. Lee, Richard Hodge and Michael Ballachey, however again does not respond regarding
6 his relationship with Oakland City Attorneys John Russo, Jannie Wong and Anita Hong. He does mention
7 that he socializes with the judges at events but has never discussed the al-Hakim case with them. Well,
8 whom has he discussed the al-Hakim case with? Further, with whom, when and what has he discussed al-
9 Hakim or any al-Hakim related issues? Tigar fails to admit or deny Plaintiff's allegations as required by §
10 170.3, subd. (c)(3). Plaintiff request that Judge Tigar recuse himself in the interest of justice as per Code of
11 Civil Procedure §170.1(a)(6)(A), and (B) in violation of the law and/or must be disqualified.

12 8) In paragraph 15 Tigar states that he can not discern specific facts that support Plaintiff's allegation
13 of racism, bias, or misconduct against him yet he has failed and refused to answer any of the allegations
14 contained in the Statement of Disqualification nor this Reply that all remain outstanding, Clearly he does
15 not want to address those issues nor the issues of "What race are the parties/counsel he encountered in this
16 case?", What was the race of the parties/counsel in the case he presided over in the settlement?, and "Did
17 he say the same things to the African-American parties in settlement as he did their White counterparts?".
18 The worst type of elitist, bias, prejudice, racist, bigot is the one that thinks that he can deceive and fool
19 everyone, feels he is above suspicion, has no obligation to defend his actions and attitude, in a more blatant
20 display ignores it, or in worst case in so ignorant in his actions of ignorance that he is oblivious to them.

21 Tigar is not that ignorant! Tigar fails to admit or deny Plaintiff's allegations as required by § 170.3, subd.
22 (c)(3). Plaintiff request that Judge Tigar recuse himself in the interest of justice as per Code of Civil
23 Procedure §170.1(a)(6)(A), and (B) in violation of the law and/or must be disqualified.

24 9) In paragraph 16 Tigar states that he works hard to create an environment of comfort for parties to be
25 heard and provides a letter from an attorney to support his contention. As to this plaintiff, Tigar has failed
26 that self imposed standard, does not comport with his actions and would defy all logic in consideration of
27 this reply contained herein at paragraphs 1-9 and particularly paragraph. 4 and 5. The real question is
28 "How many complaints has Tigar had over the years?".

29 In Plaintiff's investigation of Tigar, there was two references of reptiles that crawl on their bellies that was
30 used to describe his character.

31 One was a chameleon as he changes color to blend into the litigation strategy of a party and the other was a
32 snake as he would then raise up and bite you in the back! He can not be trusted with the truth or the law!

1 The other prevalent comment was “his father he is NOT!”. Tigar fails to admit or deny Plaintiff’s
2 allegations as required by § 170.3, subd. (c)(3). Plaintiff request that Judge Tigar recuse himself in the
3 interest of justice as per Code of Civil Procedure §170.1(a)(6)(A), and (B) in violation of the law and/or
4 must be disqualified.

5 10) In paragraph 17 Tigar states that he is a member of several judicial committees and makes ethics
6 and fairness part of his out of court judicial work. The fact that he so proudly proclaims this out of court
7 work is all the more startling that he could make such statements in courtroom both in and out of session!
8 Tigar had to know better and to now fail and refuse to answer any questions regarding what he said and did
9 is inexcusable. What other professional or social organizations, associations, or committees does Tigar
10 belong to? Tigar fails to admit or deny Plaintiff’s allegations as required by § 170.3, subd. (c)(3). Plaintiff
11 request that Judge Tigar recuse himself in the interest of justice as per Code of Civil Procedure
12 §170.1(a)(6)(A), and (B) in violation of the law and/or must be disqualified.

13 11) In paragraph 18 Tigar states that other than the answers he has provided, he has no knowledge of
14 the truth or falsity of the factual allegations in the Challenge and deny them on that basis yet he has
15 repeated lied while failing and refusing to answer to any of his statements or actions made in the Challenge
16 by plaintiff. Tigar will have to address the fact that he will be asked to rule on the many transgressions of
17 not only the defendants and their counsel in this case, but the underlying case defendants, their counsels,
18 their experts and witnesses, and all the judges named herein. The financial, political and social climate of
19 this country in relations to racism, religious bigotry, bias, prejudice, and that of elitist class. Tigar fails to
20 admit or deny Plaintiff’s allegations as required by § 170.3, subd. (c)(3). Plaintiff request that Judge Tigar
21 recuse himself in the interest of justice as per Code of Civil Procedure §170.1(a)(6)(A), and (B) in violation
22 of the law and/or must be disqualified.

23 12) In paragraph 19 Tigar states that the court should assess the credibility of plaintiff in considering
24 the allegation of bias against him by plaintiff’s history of challenges against judges. If Tigar has no
25 knowledge of this case, has only read the register of actions, how would he have any knowledge of the
26 Challenges filed by plaintiff and the contents of the answers filed in those challenges and the order
27 dissolving the stay. The answers to the challenges are not public information and could not be accessed for
28 any such purposes as his answer. This is another obvious lie and more precisely it is intended to prejudice
29 the review of this Challenge. Along with his proud display of his self touted connections in the review of
30 judges, he is clearly attempting to “curry favor” from a colleague for his pitiable position. How would the
31 previously filed challenges or the order on the stay impact his actions in this matter? Why has he repeatedly
32

1 failed and refused to answer his actions? Tigar fails to admit or deny Plaintiff's allegations as required by §
2 170.3, subd. (c)(3). Plaintiff request that Judge Tigar recuse himself in the interest of justice as per Code of
3 Civil Procedure §170.1(a)(6)(A), and (B) in violation of the law and/or must be disqualified.

4 A jury would easily convict Tigar of obstruction of justice for lying under oath in his Answer To Challenge
5 For Cause and the written Order Striking Challenge For Cause. Tigar omitted answering most of the
6 allegations that established that he was being purposefully evasive, deceptive, and lying under oath.

7 Tigar repeated and continued failing and refusing to answer and testify only darkens the cloud surrounding
8 his statements and actions, despite the fact that his own words bear witness against his claim of not being
9 "dishonest". Perhaps only a grand jury will force him to truthfully answer the allegations and accept the
10 obvious by recusing.

11 Tigar seems to be asking for an emotional appeal for leniency that Plaintiff believes would send the wrong
12 message and would seem unfair to the Public. "The message to the Public should be that you cannot lie in a
13 court of law, even if you are a judge".

14 It is well established in legal and political circles of Tigar's ambition to become an Appellate Court Judge,
15 not unlike the appellate judges he mentions both Richman and Needham. He has proudly acknowledged his
16 serving in the capacity of reviewing the complaints against judges, presumably the Judicial Council or like
17 type committee, though never mentioning any complaints against him. How many times has he ruled on the
18 actions of another judge? Who were they? What was the outcome? Tigar fails to admit or deny Plaintiff's
19 allegations as required by § 170.3, subd. (c)(3). Plaintiff request that Judge Tigar recuse himself in the
20 interest of justice as per Code of Civil Procedure §170.1(a)(6)(A), and (B) in violation of the law and/or
21 must be disqualified.

22 It is with this in mind that he could not pass any objectionable test for bias or corruption by any member of
23 the general public. When one considers that he will be asked to preside over the actions of ALL the judges
24 he mentions, it is not possible that he would not "rubber stamp" their transgressions as a matter already
25 decided, though by another judge like him, NOT THE GENERAL PUBLIC AS STATED IN LAW!. Tigar
26 fails to admit or deny Plaintiff's allegations as required by § 170.3, subd. (c)(3). Plaintiff request that
27 Judge Tigar recuse himself in the interest of justice as per Code of Civil Procedure §170.1(a)(6)(A), and
28 (B) in violation of the law and/or must be disqualified.

29 **C. There Are No New Facts**

30 **"Facts do not cease to exist because they are ignored." - Aldous Huxley**

31 Plaintiff referenced all new facts in the Challenge as they occurred AFTER Tigar's reply and he has
32 NEVER responded to the allegations and failed and refused to do so in this current Challenge. All of the

1 facts herein have never been addressed by Tigar including the following:.

2 1. Judge Tigar's Verified Answer Reveals Improper Ex Parte Communications and Obtained Knowledge
3 and Information Regarding Disputed Evidentiary Facts

4 Judge Tigar had exceeded his role as an impartial adjudicator and engaged in his own investigation.
5 Because there was no record of Judge Tigar's conversation with the judges, al-Hakim contends the judge
6 presumably obtained knowledge and information regarding other challenges and disqualification's from
7 improper ex parte communications; facts and evidence of other judges involvement in this case that he is
8 familiar with; and disputed evidentiary facts unknown to defense counsel and the plaintiff. For these
9 reasons, and because Judge Tigar would be a material witness concerning his conversation about the prior
10 challenges and how he obtained such information, al-Hakim contends that Judge Tigar must be disqualified
11 for cause pursuant to section 170.1, subdivision (a)(1) (the judge has personal knowledge of disputed
12 evidentiary facts) and (a)(6) (a person aware of the facts reasonably might entertain a doubt whether the
13 judge would be able to be impartial). Judge Tigar also demonstrated bias by stating at the hearing that he
14 was denying discovery motions, contrary to the recommendations of the presiding court judge, without
15 having considered evidence and argument on behalf of al-Hakim, and solely because he and defense
16 counsel opposed it. His answer further suggest that the bleeding of this information of the previous
17 challenges into failed his answer portends the authoring of his answer by Anita, the former law clerk for
18 Judge Henry Needham. Tigar fails to admit or deny Plaintiff's allegations as required by § 170.3, subd.
19 (c)(3). Plaintiff request that Judge Tigar recuse himself in the interest of justice as per Code of Civil
20 Procedure §170.1(a)(6)(A), and (B) in violation of the law and/or must be disqualified.

21 14. Potential Serious Conflicts of Interests Must Be Disclosed By All Parties, Including the Defendants
22 and Defense Counsel Firms and Both Judges Tigar and Attack

23 Tigar serves in several capacities in the State and Northern California Judicial system, and he may well be
24 associates, friends, and acquaintances with Judge Attack whom ruled on his challenge the defendants and
25 defense counsel firms and his fathers potential impact upon this case with his associates, friends, and
26 acquaintances with related parties. Therein lies some potential serious conflicts of interests that must be
27 disclosed by all the parties, including the defendants and defense counsel and both Judges Tigar and Attack
28 as judges are obliged to disclose significant or substantial relationships with the parties and Tigar's fathers
29 potential impact upon this case with his associates, friends, and acquaintances with related parties. Due to
30 this prior involvement and his relationships, Tigar must and has failed to provide a full written disclosure as
31 required under California Code of Civil Procedure §170.1(a)(6)(A), and (B) in violation of the law and
32 must be disqualified. Tigar fails to admit or deny Plaintiff's allegations as required by § 170.3, subd. (c)(3)

1 and Plaintiff request that Judge Tigar recuse himself in the interest of justice as per Code of Civil Procedure
2 §170.1(a)(6)(A), and (B) in violation of the law and/or must be disqualified.

3 **15. The Judge Deciding the Disqualification Also Avoided Issues Of Disqualification and Refused To**
4 **Hear Evidence On Disputed Issue Of Fact**

5 **"Suspicion must always fall on those who attempt to use silence on their opponents. "**

6 **-Ian Buckley**

7 Permitting the judge deciding the question of disqualification to avoid the issues raised in the challenge just
8 as Tigar did, does not serve the salutary purpose of furthering the accuracy and integrity of the fact-finding
9 process and allowing a challenged judge nor al-Hakim the opportunity to "clear his name. " al-Hakim
10 maintains that this purpose is especially important because the allegedly disqualified judge has the greatest
11 motivation to litigate the issue of his own impartiality and because serious disciplinary consequences may
12 follow a determination that a judge is biased. (See In re Rasmussen (1987) 43 Cal. 3d 536, 538 [236 Cal.
13 Rptr. 152, 734 P.2d 988] [trial judge disciplined for various acts of misconduct, including refusal to
14 disqualify himself from a proceeding in which he had communicated substantive matters to a party in the
15 absence of counsel].) Tigar fails to admit or deny Plaintiff's allegations as required by § 170.3, subd.
16 (c)(3). Plaintiff request that Judge Tigar recuse himself in the interest of justice as per Code of Civil
17 Procedure §170.1(a)(6)(A), and (B) in violation of the law and/or must be disqualified.

18 al-Hakim asserts that public policy would be better served by affording the hearing to review the challenge
19 for disqualification. Limiting review of disqualification orders in accordance with section 170.3(d) violates
20 certain rights of due process to al-Hakim and the challenged judge and is procedurally unfair, and the
21 statute may be unconstitutional or should be held invalid on these grounds. For this reason, a hearing is
22 justified in any event, although a ruling disqualifying a judge for cause under certain circumstances might
23 provide evidence of misconduct warranting judicial discipline, such discipline could not be imposed without
24 further proceedings before the Commission on Judicial Performance, where the judge would have a full and
25 fair opportunity to respond to any allegations of misconduct, as well as an opportunity to petition for review
26 in this court. (See Cal. Const., art. VI, § 18, subd. (d); Cal. Rules of Court, rule 935; Rules of Com. on Jud.
27 Performance, rules 109-135.) Moreover, many grounds warranting disqualification for cause do not
28 suggest that the judge necessarily has engaged in improper conduct.

29 Statutes governing disqualification for cause are intended to ensure public confidence in the judiciary and to
30 protect the right of the litigants to a fair and impartial adjudicator--not to safeguard an asserted right,
31 privilege, or preference of a judge to try or hear a particular dispute. (See People v. Thomas (1972) 8 Cal.
32

1 3d 518, 520 [105 Cal. Rptr. 366, 503 P.2d 1374]; North Bloomfield G. M. Co. v. Keyser (1881) 58 Cal.
2 315, 322-323; see also Alexander v. Primerica Holdings, Inc. (3d Cir. 1993) 10 F.3d 155, 164-166 [strictly
3 limiting participation by trial judge in writ proceeding seeking his disqualification for cause under federal
4 statute].)

5 Plaintiff's statements of disqualification are sufficient. Even though they contain allegations on
6 "information and belief" and conclusions, which are arguably sufficient, they also allege that Tigar has lied
7 under oath. Under the plain language of the statute, Tigar must be deemed to have lied in this proceeding
8 and therefore is disqualified from hearing the case.

9 **16. The Contested Orders**

10 **1. The July 30, 2007 Order**

11 The order demands that plaintiff pay for the first four (4) hours of expert witness fees and all costs of their
12 deposition. The replaced experts David Brier, David Smith and Kevin Dawson have been named in this case
13 for over six years and the defendants have never sought to depose them. Why would plaintiff suddenly now
14 be responsible for the costs for the defendants to depose the experts? This is nothing more than a financial
15 club provided by the court for the defendants to bludgeon plaintiff with. The replacement experts David
16 Peterson, Michael Ferguson and Samuel Barnum have been known to the defendants for over eight months,
17 and in the cases of Ferguson and Barnum several years, yet they have never sought to depose these experts.
18 To order that plaintiff pay these costs at this point is grossly unfair, prejudicial, and a gross miscarriage of
19 justice. The importance of this point can not be overstated or overlooked because both the court and
20 Defendants are aware that plaintiff does not have the financial resources for such necessary expenses.
21 Defendants would happily depose the experts now for no reason other than to extinguish plaintiff's funds
22 without any benefit to plaintiff further crippling his case.

23 More importantly, the order summarily excludes the very same Retained Expert Witnesses, David Peterson,
24 Michael Ferguson and Samuel Barnum that plaintiff had named in his motion and the April 20, 2007
25 Disclosure (attached as Exhibit "B" to pleading) as his chosen retained expert witness replacements for
26 David Brier, David Smith and Kevin Dawson per the courts order. Plaintiff had agreements with those
27 Experts.

28 A simple reading of that motion reveals that the retained experts plaintiff had asked for and was granted an
29 order to replace: David Brier, David Smith and Kevin Dawson, are not listed in plaintiff's amended expert
30 list filed with the court April 20, 2007 that names his chosen retained expert witnesses David Peterson,
31 Michael Ferguson and Samuel Barnum as their replacements and referenced in the court's order. Plaintiff
32

1 does not know the affect of the meaning of the courts order on his chosen retained expert witnesses nor the
2 naming of the replacements and is unsure if:

3 a. this ruling by the court is made without the comprehension that the replacement experts are anticipated
4 and his chosen retained expert witnesses named in the motion and amended disclosure and unknowingly
5 excluded by the court from being named as a result of the courts order;

6 b. perhaps by plaintiff's inadvertent mistake in filing the motion to amend and providing his chosen
7 replacement retained expert witnesses in the amended disclosure caused the courts confusion though the
8 motion was necessary;

9 c. there is a grammatical, syntax, or other sentence composition error that lead to the wording of the order
10 being unintelligible from the standpoint of interpretation and/or meaning in excluding his chosen retained
11 expert witnesses or naming the replacements; or that

12 d. this ruling was made willfully and intentionally.

13 For these reasons, on August 14, 2007 Plaintiff filed an appeal of this order.

14 **2. The August 31 and September 7, 2008 Orders**

15 Plaintiff feels that these rulings, conduct and actions by the court exhibit a continued patterned of abuse of
16 discretion, bias, prejudice, and misconduct on behalf of judge Tigar, that the result of these rulings are
17 prejudicial and if not corrected will result in a miscarriage of justice.

18 Judge Tigar has moved to exclude and dismiss the actions of the defendants, their counsels, agents
19 employees, contractors, and/or associates in this and the underlying case, which provide profoundly
20 substantial evidence of their unlawful activity in order to protect them.

21 Plaintiff will easily demonstrate that he would suffer great prejudice by these privileged rulings and that he
22 is likely to succeed in appeal on the merits. The rulings bars plaintiff from establishing his prima facie case
23 on many of his claims and no protective procedure can salvage plaintiff's suit.

24 The effective application of these rulings gives the defendants the privilege of a litigation advantage that has.
25 . . two effects. First, when these privileged rulings are invoked over particular evidence, the evidence is
26 completely removed from the case. Plaintiff's case, however, may proceed based on evidence not covered
27 by these privileged rulings. If plaintiff cannot prove the *prima facie* elements of his case or claims without
28 the evidence bared by the privileged rulings, then the court has essentially and may dismiss his claim as it
29 would with any plaintiff who cannot prove his case. Secondly further buttressing its assertion of this
30 privileged order, essentially a non-suit or summary judgment has or may be granted in favor of defendants
31 because the privilege rulings deprives the plaintiff of evidence, testimony, documents and relevant orders
32

1 and information that would otherwise give the plaintiff valid proof to the causes of action and his claims.
2 Plaintiffs' specific allegations, claims, and causes of action based in large part on the actions of these
3 parties are supported by abundant corroborating evidence and the involvement of these Defense parties, in
4 this and the underlying trial is a matter of public record, confirmed by documentary evidence and
5 eyewitness testimony, including sworn declaration.

6 These rulings for all practical purposes results in the dismissal of major uncontested and uncontroverted
7 documents, evidence, testimony crucial to establishing many of plaintiff's causes of actions and damages on
8 the merits. Such an order is irreconcilable with the concept of due process and the result of any trial by
9 plaintiff on his causes of action being legitimately weighed by the trier of fact in a just proceeding on the
10 merits. These orders are inherently inconsistent with any perceived proceeding under the guise of fairness
11 and seeks to avoid that very same concept that we all hold dear. The termination of plaintiff's right to
12 proceed unimpeded by this judicial foreclosure of facts embraced in or affected by this prejudicial order is
13 irreconcilable with the just litigation and presentation of his case to the jury in relation to the possible
14 outcome while it enhances the effectiveness of an actual appeal of the outcome. Indeed, the point of the
15 fairness laws, ordinances and statutes are that one has a right not to be dragged through the courts because
16 they HAD to exercise their constitutional rights.

17 There can be little question but that, under the circumstances of this case, a reversal of the trial court's order
18 would serve a just, fair, practical and legitimate purpose. The trial court's error--going forward with the trial
19 while its pretrial ruling on plaintiff's motion is improper will drastically affect the actual trial of the case, the
20 jury's verdict, and the content of the judgment in every respect. What will be accomplished by a reversal is a
21 more fair and just trial without the wasting of considerable time, effort, and resources.

22 The California Constitution provides that "[n]o judgment shall be set aside ... in any cause ... for any error
23 as to any matter of procedure, unless, after an examination of the entire cause, including the evidence, the
24 court shall be of the opinion that the error complained of has resulted in a miscarriage of justice." (Cal.
25 Const., art. VI, § 13.) By statute, trial court error provides a ground for reversal only if it affects "the
26 substantial rights of the parties." (Code Civ. Proc., § 475.) No judgment may be reversed on the basis of an
27 error or defect in the proceedings unless "a different result would have been probable if such error ... or
28 defect had not occurred or existed." (*Ibid.*) In the present case, it is undisputed that the error complained of
29 will result in a miscarriage of justice.

30 **3. Relevance of the Underlying Rescue Trial**

31 It is settled law in this state that as relevant to the conduct and actions herein and listed in the attached
32 separate statement in the original motion of the named parties; Plaintiff's former attorney Frank McKeown;

1 the underlying case defendant's Rescue Industries and their attorneys including Fletcher C. Alford, agents,
2 witnesses and experts; defendant CSAA and their attorneys, agents, witnesses and experts; Ron Cook and
3 Willoughby Stuart & Bening and their attorneys, agents, witnesses and experts; former defense counsel for
4 the hostile intervener Sean O'Halloran; and the City of Oakland Attorneys' office and their attorneys,
5 agents, witnesses and experts; all having participated in, committed and being guilty of orchestration of the
6 defense strategy, witness testimony and evidence that was procured thru admitted suborned and solicited
7 perjurious testimony by them; engaged in actions to interfere with the litigant's legal case through fraud and
8 deception against their insured; engaged in actions to coverup the unlawful act of suborn and solicited
9 perjurious testimony; committed patterned criminal, willful, and corrupt fraud upon the Court of the State of
10 California; engaged in acts and created documents to coverup the unlawful tactics; fraudulent concealment
11 by willfully and intentionally withholding their knowledge and insight of the intervention hearing and the
12 transcript of said hearing to gain an order from the court after being denied; they failed and refused to
13 disclose to the court their stealthily absconding the City of Oakland files without the permission or
14 knowledge of the City Attorney's staff; their spoliation of evidence with the disappearance of court records;
15 allowed the trial to proceed knowing their responsibility and the legal impact of their spoliation of evidence
16 of the documents; their unpardonable breach in the chain of custody of said documents; conspiracy to
17 commit fraud; conspiracy; extrinsic fraud; aided and abetted criminal activity; committed willful, criminal
18 and corrupt perjury; fraud; fraudulent concealment; conspiracy to commit fraud; conspiracy; subornation of
19 perjurious testimony and solicitation of perjurious testimony; collusion; corruption; illegal and improper ex
20 parte communications; abuse of discretion; gross misconduct; conduct prejudicial; gross negligence; bias,
21 prejudice; and made numerous false allegations in their pleadings, wherein these charges are inextricably
22 intertwined with their truthful testimony and their perjury; and fraudulent concealment by the defendant of
23 the facts upon which a cause of action is based (*Kimball v. Pacific Gas & Elec. Co.*, 220 Cal. 203 [30
24 P.2d 39]) or mistake as to the facts constituting the cause of action (*Davis etc. Co. v. Advance etc. Works,*
25 *Inc.*, 38 Cal.App.2d 270 [100 P.2d 1067]; see 16 Cal.Jur. 505) is discoverable and trial material. Principles
26 of equity and justice, to which this court is bound to grant relief, are likewise controlling here. The present
27 case involves an insurer whose duty of good faith in dealing with the insured is well established. (See 13
28 Appleman, Insurance Law and Practice 37; Vance, Insurance (1930) 74.) It is likewise unnecessary to dwell
29 upon the contention that the insurer's duty of good faith to its insured arises at the time of contracting and
30 persists throughout the period when premiums are paid and no return is sought, but that when a loss occurs
31 and the insured seeks to obtain the compensation provided in the contract, the parties deal at arm's length. It
32 is sufficient to hold that the equitable considerations that justify relief in this case are applicable whether

1 defendant violated a legal duty in failing to disclose its actions and involvement in setting up the underlying
2 defendants technical defense, and participation in the subsequent trial or whether it is now getting the aid of
3 the court in sustaining this prejudicial order that would enable them to obtain an unconscionable advantage
4 and enforce an unfair forfeiture of plaintiff's rights at trial on the merits.

5 Admittedly plaintiff finds himself in unfortunate circumstances that are not of his own choosing and his
6 plight is very different from that of a multitude of litigants against whom this court has applied clear rules
7 of law. And contrary to the intimation raised by dictum in the trial courts order, the plaintiff's position was
8 defined and occasioned by any unreasonable conduct of these and the underlying defendants, their counsels
9 including Alford, agents employees, contractors, and/or associates. Although it is said that the situation of
10 plaintiff at the present time is attributable to the improper ruling of the trial court granting Alford's motion
11 and denying plaintiff's, the record shows allegations and claims by him that the defendants actions for the
12 designed purpose of causing the complete disaster of plaintiff cases that were improper or not for good
13 cause, or that these and the underlying defendants, their counsels including Alford, agents employees,
14 contractors, and/or associates affirmatively misled him by lulling him into a sense of false security and,
15 consequently, justice demands that this court allow a remedy. The "factual background of this action,"
16 warrants just such an assumption and controlling principles compel the conclusion that according to settled
17 rules of law the insurer took undue advantage of plaintiff. He and the insurance company were adversaries
18 in an action at law and as such entitled to deal at arm's length but also as partners to a contract AGAINST
19 the underlying defendants, their counsels including Alford, agents employees, contractors, and/or
20 associates. The rule that the insurer and the insured owe each other a high degree of good faith in
21 contracting (Vance on Insurance (2d ed., 1930), pp. 74-75) and in every sense affect their position as
22 adversaries AGAINST Alford and the underlying defendants in a court of law for, in litigation, they face
23 each other in an entirely different capacity having entirely different incidents.

24 **4. Sanctions**

25 The orders demands that plaintiff pay sanctions presumably for discovery abuses in the filing of the
26 motions yet the motion that plaintiff filed was for the court to issue TRIAL subpoenas ordering the witness
27 to appear, not deposition subpoenas and to provide witness information for TRIAL! Plaintiff had already
28 received and served TRIAL subpoenas but has knowledge that the witnesses served would try to avoid
29 appearing without the court specifically ordering them. The option of issuing deposition subpoenas is just
30 that, an option that the court has the power to exercise. This was merely an alternate option to facilitate the
31 trial and for judicial economy presented in an attempt to make the court aware of the many abuses of the
32 defendants as it relates to discovery and depositions, the possibility of long, tedious, and needless trial

1 testimony, with the resulting costs for same, not a DEMAND! This offer of an option can hardly qualify as
2 a motion to reopen discovery by a plaintiff in pro per. Why would plaintiff suddenly be charged with
3 discovery abuses and ordered to pay sanctions for proposing an option that clearly a fair and just judge has
4 the obligation to consider and discretion to exercise? This is nothing more than a financial club provided by
5 the court for the defendants to bludgeon plaintiff with. To order that plaintiff pay these sanctions is grossly
6 unfair, bias, prejudicial, oppressive, an abuse of process and a gross miscarriage of justice. The importance
7 of this point can not be overstated or overlooked because both the court and defendants are aware that
8 plaintiff does not have the financial resources for his own necessary expenses and Tigar has now issued
9 this order for no reason other than to further extinguish plaintiff's funds.

10 **5. "Discovery" Labels**

11 As with the request for the disclosure of the witness pertinent contact information, that is required in the
12 defendants filing of their disclosure declarations and they have NEVER made that proper disclosure. For
13 plaintiff to make this fact known of defendants continued failure and refusal to provide the required
14 information and his need for same, is an effort to facilitate the trial, for judicial economy, to clarify this
15 outstanding omission and give the courts a chance to enforce the law before trial and motions in limine to
16 ensure a fair trial on the merits again without the loss of time and increase costs. This also can not be
17 characterized as a motion to reopen discovery by a plaintiff in pro per who seeks this required and needed
18 information for TRIAL!. These entitlements and citations as "discovery motions" and attempts to "re-
19 open discovery" are merely veils to hide the real intent by judge Tigar to avoid appellate review because by
20 labeling them as such they are easy to deny without suspicion or attention, to award sanctions against
21 plaintiff and are not appealable by plaintiff.

22 **6. Release of Orders; Gamesmanship**

23 These orders are both stamp executed on September 10, 2007, though the hearings were a week apart, and
24 received by Plaintiff after he emerged from retreat in December. It is a clear impossibility for the court to
25 reasonably expect Plaintiff to have responded to these orders given the advanced notice to the court of his
26 absence and inability, and for the court to hold the orders and disseminate them after plaintiff was in retreat
27 is oppressive, unconscionable, a clear abuse of process and a gross miscarriage of justice!

28 The counterintuitive order arrived at by the trial judge is not the creature of constitutional or statutory
29 compulsion; it emanates entirely from earlier decisions rendered by this court and judge. Plaintiff believes it
30 is time to reject and disavow these judicially imposed formalistic civil rights and due process violations and
31 constraints and arrive at a fairer, just and more logical outcome in this case and in future proceedings.

32 **17. Tigar's Orders Denying Ex-Parte Applications for Orders Shortening Time**

1 Plaintiff opposed the order denying the **Ex-Parte Applications for Orders Shortening Time** and
2 respectfully requests that the order be vacated on the grounds that:

3 A. Tigar did not review the issues as plead by Plaintiff on January 11, 2008 nor the past pleadings from the
4 orders dated July 30, August 31 and September 7, 2008, as requested or he would have discovered both
5 legal authority and competent supporting evidence for the court to rule in Plaintiff's favor. This was an
6 error of judge Tigar.

7 Tigar's above orders denying Plaintiff's rights to a fair trial of his claims without any statutory or
8 contractual basis authorizing such a ruling places an intolerable burden on Plaintiff, denying Plaintiff his
9 legitimate and undeniable rights to this claim, and strikes at the heart of Plaintiff's fundamental civil rights
10 and due process under the law, guaranteed by the United States Constitution and California Constitution.

11 Plaintiff asserts the trial court abused its discretion in ordering to amend the witness list but to exclude his
12 chosen retained expert witnesses as the replacements named because it seeks to alter the course of his
13 litigation and strategy that clearly demonstrate an abuse of discretion, that "the error is prejudicial (Code
14 Civ. Proc., § 475) and if not corrected, it would result in a 'miscarriage of justice.' Pool v. City of Oakland
15 (1986) 42 Cal.3d 1051, 1069 [232 Cal.Rptr. 528, 728 P.2d 1163], quoting Cal. Const., art. VI, § 13; People
16 v. Watson (1956) 46 Cal.2d 818, 834 [299 P.2d 243].)

17 **With regards to Judge Tigar, there is an infinite amount of evidence herein to attest to his lying**
18 **under oath and perjury, misrepresentations, deceit, dishonesty, willful and prejudicial**
19 **misconduct, bad faith, incompetence, conflicts of interest, bias, calling Plaintiff a liar** without any
20 substantiation or justification; instructing Plaintiff not to mention Tigar's perjury or to speak his own truth;
21 threatened retaliation to charge him with contempt when plaintiff refused to back off his charges of the
22 judges perjury, deceit; entitling orders for his convenience to deny them and avoid appellate review; entitling
23 orders for his convenience to deny them and issues sanctions; willful and intentionally withholding filing
24 and serving orders (possibly backdating orders) then acted on the orders after the applicable deadlines for
25 Plaintiff to legally and properly respond, thus forcing Plaintiff to forfeit his civil rights and right to due
26 process; irresponsible failure as a judge to read, interpret, and apply the applicable laws, , **accusing**
27 **Petitioner of attacking judges in open court, has attacked other parties in open court while**
28 **dressed in civilian clothes yet performing his duties as a judge and his honest refusal to recuse**
29 **"goes beyond mere negligence";** this conduct falls into the category of willful misconduct by a judge as
30 arising out of conduct which is done in bad faith and conduct prejudicial to the administration of justice that
31 brings the judicial office into disrepute. The deception practiced by Judge Tigar during these events, as well
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1 as his specious actions before this Plaintiff on every occasion, are equally antithetical to, and inherently
2 incompatible with, his duties to uphold the law and the search for truth, reflects a gross lack of judicial
3 temperament and a purpose other than the faithful discharge of judicial duty, and is at minimum improper
4 action. Given the above, Judge Tigar's conduct violated canons 1, 2, 2A, and 2B(2), and constituted both
5 willful and prejudicial misconduct. Judge Tigar treated plaintiff in a rude and demeaning manner, in
6 violation of canons 1, 2A, 3B(2), 3B(4), and 3B(8). He berated, scolded, threatened, and belittled plaintiff
7 even called him a liar. These improper references of plaintiff's character and as being untruthful, coupled
8 with his perjury regarding the discovery matters and categorical denial of every discovery issue raised
9 before him reflected a prejudgment of plaintiff's discovery claims and a lack of impartiality, contrary to
10 canon 3B(5). Judge Tigar's persistent willful misconduct, bad faith, mistreatment, promised retaliation and
11 "atmosphere of unfairness" determines that there is a high probability he would continue his unethical
12 behavior if he were to continue in a judicial capacity in the future;

13 B. The defendants opposition to the motions were void of any true facts that contest Plaintiff's factual
14 presentation of evidence, law and case law in support of his motion, while Defendants do not cite any real
15 case law in support of their opposition and fails to set forth any facts or legal authority which support their
16 contentions and really never contest Plaintiff pleading. Although Plaintiff has provided page after page of
17 laws and citations that Tigar and defendants want to ignore, again the relief sought by Plaintiff is
18 specifically authorized by the plain language of Section 1821.8(b), and therefore no additional "case
19 authority" is required.

20 C. it violates and strikes at the heart of Plaintiff's fundamental civil rights and due process under the law
21 guaranteed by the United States Constitution Amendments I, V, VI, and XIV, and as applicable to this state
22 of California Constitution by the first clause of Section 13 of Article I; Article VI, section 13, as a
23 "miscarriage of justice."; Article VI, section 18, subd. (d)(3), and his insurance contractual rights with the
24 Defendants;

25 D. a legal decision as critical as whether or not to deny Plaintiff his lawful right to his chosen expert
26 witnesses, proof of his causes of action and a fair and just trial of his claims by a "competent and
27 disinterested" judge when Plaintiff has prepared his claims for trial, when this court is fully aware of the
28 presence of disqualifying factors of the judge that would constitute the vacating of any trial awards rendered
29 and to properly litigate his case; perform discovery on all matters submitted; complete pretrial related
30 motions; subpoena and depose, if necessary, witnesses; is allowing Judge Tigar to be the henchman for the
31 defense and release the judicial guillotine upon Plaintiff and his family's neck with Plaintiff's entire 10 year
32 action and trial being destroyed by this blatantly erroneous ruling on this judge's own discretion;

1 E. it is void of any legal basis, moral conviction, ethical reason nor merit as Tigar has failed and refused to
2 provided the truth of his statements and actions nor any information sought relative thereto and has fostered
3 his relationship involvement and business with Defendants CSAA, and their defense counsel Ropers
4 Majeski, as they represented his interest BEFORE HIMSELF as judge in their opposition to his staged
5 recusal in April 2007 allowing him to continue as judge in this matter. He has subsequently ruled in favor
6 of the underlying defendants Rescur Rooter, City of Oakland, and the defense counsel in the underlying
7 case of Rescue Rooter, yet has offered no explanation whatsoever for any of the false statements, through
8 this denial asserts he had no obligation to advise Plaintiff of the truth even though he was aware of the
9 misrepresentations. His representation by the defendants has the unfortunate consequence of making the
10 judge a litigant, obliged to the defense and their counsel by leaving his defense to one of the litigants
11 appearing before him' in the underlying case. These erroneous rulings clearly exhibits Tigar's is
12 intemperate and has stepped outside the boundaries of what can be characterized as proper and reflects the
13 judge's intent to intimidate, taunt, infer, and influence the outcome of this case, and as such, impress on the
14 case his judicial imprimatur of the defense's position;

15 F. is retaliatory, punitive and places an intolerable burden on Plaintiff;

16 G. denies Plaintiff his legitimate and undeniable rights to his claims and the proper litigation thereof; and

17 H. is indicative of the continued willful, prejudicial misconduct, abuse of discretion and process, bias and
18 deceit of Judge Tigar legally and practically deprives Plaintiff of due process by depriving him of the right
19 to a fair and impartial trial, wherein the findings and judgment resulting from such misconduct must be
20 annulled, and the matter remanded for further proceedings as in the event of a mistrial. California courts
21 recognize that such actions on the part of a judge such as those committed here by Judge Tigar are illegal.

22 There was no GOOD reason for these matters to even be at issue, and it's intent is malicious and
23 transparent. For the herein reasons Plaintiff respectfully requests that Tigar is disqualified and the orders be
24 vacated.

25

26 **18. The July 30, 2008 Order**

27 **Plaintiff Must Have Expert Witness To Overcome Burden to Establish and Prove his Causes** 28 **of Action**

29 In order for Plaintiff to prevail at trial in his Causes of Action For Professional Negligence, Breach of
30 Good "Bad" Faith, Breach of Insurance Contract, Intentional Infliction of Emotional Distress, Fraud,
31 Misrepresentation, Unruh Act, Abuse of Process and Violation of California Business and Professionals

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1 Code §17,200 ET SEQ, and evidence of damages by Plaintiff against Defendants he absolutely must have
2 Expert Witnesses in the areas of law mentioned. The following are a few areas and examples of the
3 necessity of these experts for plaintiff to prevail on **EVERY ONE** of his causes of action.

4 **A. Standard of Care**

5 At trial Plaintiff has the burden of proof by a preponderance of the evidence, the inferences he relies must
6 satisfy the "more likely than not" burden (*Leslie G. v. Perry & Associates, supra, 43 Cal. App. 4th at p.*
7 *487*; Cf. *Kidron v. Movie Acquisition Corp.* **All of these claims and the resulting damages can only**
8 **be established through expert testimony.**

9 Plaintiff asserts the trial court abused its discretion in ordering to amend the witness list but to exclude his
10 chosen retained expert witnesses as the replacements named because it seeks to alter the course of his
11 litigation and strategy that clearly demonstrate an abuse of discretion, that "the error is prejudicial (Code
12 Civ. Proc., § 475) and if not corrected, it would result in a 'miscarriage of justice.' " (*Pool v. City of*
13 *Oakland* (1986) 42 Cal.3d 1051, 1069 [232 Cal.Rptr. 528, 728 P.2d 1163], quoting Cal. Const., art. VI, §
14 13; *People v. Watson* (1956) 46 Cal.2d 818, 834 [299 P.2d 243].)

15 As an example, Judge Tigar's improper order makes it impossible for plaintiff to prove, with his chosen
16 retained expert witnesses, to the trier of fact what the duty of care defendants owed to plaintiff, that it was
17 required of them to perform up to the expected level of care as the claims adjustor, appraisal advisor and as
18 the insurance company party to the contract. The court must concede that this is the duty of a jury (*Ishmael*
19 *v. Millington*, supra, 241 Cal.App.2d at pp. 525-528; *Lysick v. Walcom*, supra, 258 Cal.App.2d at p. 150
20 ["Breach of duty is usually a fact issue for the jury, but it may be resolved as a matter of law if the
21 circumstances do not permit a reasonable doubt as to whether the defendant's conduct violates the degree of
22 care exacted of him."].) and can not argue that defendants breaching their duty of care to plaintiff is an
23 issue to be resolved by expert evidence regarding the standard of care. (*Flowers v. Torrance Memorial*
24 *Hospital*, supra, 8 Cal.4th at p. 1001; *Lipscomb v. Krause*, supra, 87 Cal.App.3d at pp. 975-976; *Lysick v.*
25 *Walcom*, supra, 258 Cal.App.2d at p. 156.) On this and a multitude of other issue plaintiff is offering
26 uncontroverted expert testimony and evidence that establishes that the reasonably prudent insurance agent,
27 adjustor, appraisal advisor, or company WOULD NOT have done the same things, i.e.; fraud, extrinsic
28 fraud, corruption, misconduct, interference with the litigation privilege, deception, perjury, spoliation of
29 evidence, subornation of perjurious testimony, conspiracy, intentional infliction of emotional distress upon
30 appellant and family, provided erroneous legal advice, malpractice, denied coverage, misinterpreted policy,
31 forced substandard repairs, bid rigging, hired illegal unqualified contractors, committing the acts of
32

1 procuring the appraisal awards through “corruption, fraud, or other undue means”; colluding with the
2 appraisers to “exceeded their powers”, granting an “award that cannot be corrected without affecting the
3 merits of the decision upon the controversy submitted”, the improper use of “cash value” as replacement
4 cost, use of erroneous “used cost” figures, denial of coverage, injection of fraud, concealment, breach of
5 contract, and coverage issues without any reason or evidence, such that it justified the vacating of the
6 appraisal award, among other things, under these circumstances. **Each issue above is a crucial element
7 in plaintiff prevailing in establishing every one of plaintiff’s causes of action and the resulting
8 damages as they ALL require and demand his chosen retained expert witnesses testimony and
9 evidence.** To allow this order excluding plaintiff’s chosen retained expert witnesses testimony and
10 evidence, is oppressive, unconscionable, prejudicial, a clear abuse of process and a gross miscarriage of
11 justice!

12 The record contains no evidence showing what the standard of care would have required defendants to do
13 and what, if anything defendants did to perform that duty, while defendants has failed to establish, as a
14 matter of law, that their duty of care to plaintiff did not obligate them to perform as they did in this matter.
15 Therefore, defendants have not demonstrated that their actions satisfied the standard of care they owed to
16 plaintiff. The court and defendants must agree the record clearly shows that nothing was resolved at the
17 hearing by expert evidence, while all of the above occurred in this case that requires and demands expert
18 testimony, that to exclude plaintiff’s chosen newly named retained expert witnesses by order from that
19 hearing is prejudicial and just such an abuse of discretion as described when the court has exceeded the
20 bounds of reason resulting in a miscarriage of justice. (*Shamblin v. Brattain* (1988) 44 Cal. 3d 474, 478
21 [243 Cal. Rptr. 902, 749 P.2d 339].) Encumbered under the horrific oppression of the unjust order,
22 Plaintiff will be burdened with the same standard to bear and same insurmountable obstacle to justice to
23 overcome to prevail in proving each one of his causes of action and the resulting damages as they ALL
24 require and demand his chosen retained expert witnesses testimony and evidence.

25 ***B. Fraud Claims***

26 THE NECESSARY ELEMENTS OF FRAUD ARE: (1) misrepresentation (false representation,
27 concealment, or nondisclosure); (2) knowledge of falsity (scienter); (3) intent to defraud (i.e., to induce
28 reliance); (4) justifiable reliance; and (5) resulting damage." (*Molko v. Holy Spirit Assn.* (1988) 46 Cal. 3d
29 1092, 1108 [252 Cal. Rptr. 122, 762 P.2d 46]; see *Seeger v. Odell* (1941) 18 Cal. 2d 409, 414 [115 P.2d
30 977, 136 A.L.R. 1291]; § 1709.)

31 Plaintiff’s fraud claims include allegations of intentional misrepresentation, negligent misrepresentation.
32

1 (See § 1572, 1710; *Bily v. Arthur Young & Co.* (1992) 3 Cal. 4th 370, 407 [11 Cal. Rptr. 2d 51, 834 P.2d
2 745], [negligent misrepresentation is a species of the tort of deceit]; *Salahutdin v. Valley of California, Inc.*
3 (1994) 24 Cal. App. 4th 555, 563 [29 Cal. Rptr. 2d 463] [breach of a fiduciary duty usually constitutes
4 constructive fraud].) With Plaintiff's fraud, intentional misrepresentation, and negligent misrepresentation
5 claims, justifiable reliance is an essential elements of fraud and negligent misrepresentation and resulting
6 damage. (*Home Budget Loans, Inc. v. Jacoby & Meyers Law Offices* (1989) 207 Cal. App. 3d 1277, 1285
7 [255 Cal. Rptr. 483] [elements of negligent misrepresentation include justifiable reliance and resulting
8 damage]; 5 *Witkin, Cal. Procedure* (3d ed. 1985) *Pleading*, § 666, p. 117; *id.*, § 680, p. 131; *id.*, § 681, p.
9 133.) **Each issue above is a crucial element in plaintiff prevailing in establishing every one of**
10 **plaintiff's causes of action and the resulting damages as they ALL require and demand his**
11 **chosen retained expert witnesses testimony and evidence.** To allow this order excluding plaintiff's
12 chosen retained expert witnesses testimony and evidence, is oppressive, unconscionable, prejudicial, a clear
13 abuse of process and a gross miscarriage of justice!

14 As with any purchaser of insurance, Plaintiff by making a payment for coverage in any amount, and the
15 insurer receiving said payment, is making a generally irrevocable offer to provide coverage for the property
16 for that amount. (§ 2924h, subd. (a).) The insurer, perhaps more than any party, including the purchaser
17 with fewer resources with which to gain insight into the insurer's value, generally bears the burden and risk
18 of fulfilling that insurance contract.

19 It does not follow, however, that Plaintiff being intentionally and materially misled by its own fiduciaries or
20 agents as to the benefits under the insurance policy, coverage, value of the insurance and services provided
21 is within the realm of that risk. (See *Brown v. Critchfield* (1980) 100 Cal. App. 3d 858, 871 [161 Cal.
22 Rptr. 342] [Risk inherent in secured land transactions is on the mortgagee, "but that risk should not be
23 expanded to include the assumption of damages resulting from a fiduciary's negligence or fraud"].) **Each**
24 **issue above is a crucial element in plaintiff prevailing in establishing plaintiff's Breach of Good**
25 **"Bad" Faith, Breach of Insurance Contract, Intentional Infliction of Emotional Distress, Fraud,**
26 **Abuse of Process and Violation of California Business and Professionals Code §17,200 ET SEQ,**
27 **causes of action and the resulting damages as they ALL require and demand his chosen retained**
28 **expert witnesses testimony and evidence.** To allow this order excluding plaintiff's chosen retained
29 expert witnesses testimony and evidence, is oppressive, unconscionable, prejudicial, a clear abuse of process
30 and a gross miscarriage of justice!

31 In order to establish reliance, Plaintiff need only demonstrate that its loss were a proximate result of
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1 defendants' fraud, and that in the absence of such fraud he would not, in all reasonable probability, have
2 made the contract. (*Spinks v. Clark, supra, 147 Cal. 439, 444; 5 Witkin, Summary of Cal. Law, supra,*
3 *Torts, § 711, p. 810.*)

4 Again, to the extent Plaintiff justifiably relied on defendants' misrepresentations in his plead actions, its
5 damages resulting from any of these actions were incurred as a direct consequence of the fraud on the part
6 of defendants are as demonstrated. (See *Guild Mortgage Co. v. Heller (1987) 193 Cal. App. 3d 1508 --*
7 *1509 ; id. at p. 1514 [239 Cal. Rptr. 59]*[Allegations that federal regulations compelled repurchase of
8 properties resulting in plaintiff's damage, repurchase necessitated by fraud, and loan would not have been
9 made in the absence of purported misrepresentations "sufficient to establish a clear causal connection
10 between defendants' alleged fraudulent conduct and the damages sustained."].) **These claims and the**
11 **resulting damages can only be established through expert testimony.**

12 **C. Negligent Misrepresentation Claims**

13 Negligent misrepresentation is the assertion of a false statement, honestly made in the belief it is true, but
14 without reasonable ground for such belief. (*Civ. Code, § 1572, subd. 2, 1710, subd. 2; Bily v. Arthur*
15 *Young & Co. (1992) 3 Cal. 4th 370, 407--408 [11 Cal. Rptr. 2d 51, 834 P.2d 745] (Bily).*)

16 "[T]he broad statements that 'scienter' is an element of every cause of action for deceit, and that an 'intent to
17 deceive' is essential, are untrue, since neither is a requisite of negligent misrepresentation. [Citations.]" (5
18 *Witkin, Summary of Cal. Law, Torts, supra, § 722, p. 821.*) **Each issue addressed herein not only**
19 **relates to Misrepresentation, but is a crucial element in plaintiff prevailing in establishing**
20 **plaintiff's Breach of Good "Bad" Faith, Breach of Insurance Contract, Intentional Infliction of**
21 **Emotional Distress, Fraud, Abuse of Process and Violation of California Business and**
22 **Professionals Code §17,200 ET SEQ, causes of action and the resulting damages as they ALL**
23 **require and demand his chosen retained expert witnesses testimony and evidence.** To allow this
24 order excluding plaintiff's chosen retained expert witnesses testimony and evidence, is oppressive,
25 unconscionable, prejudicial, a clear abuse of process and a gross miscarriage of justice!

26 **D. Intentional Infliction of Emotional Distress**

27 "The elements of the tort of intentional infliction of emotional distress are: "(1) Extreme and outrageous
28 conduct by the defendant with the intention of causing, or reckless disregard of the probability of causing,
29 emotional distress; (2) the plaintiff's suffering severe or extreme emotional distress; and (3) actual and
30 proximate causation of the emotional distress by the defendant's outrageous conduct. . . ." (*Christensen*
31 *v. Superior Court (1991) 54 Cal. 3d 868, 903 [2 Cal. Rptr. 2d 79, 820 P.2d 181].*) **This claim and the**
32

1 **resulting damages can only be established through expert testimony.** To allow this order excluding
2 plaintiff's chosen retained expert witnesses testimony and evidence, is oppressive, unconscionable,
3 prejudicial, a clear abuse of process and a gross miscarriage of justice!

4 **E. Business and Professions Code section 17200 et. seq.**

5 The first amended complaint alleges a violation of *Business and Professions Code section 17200 et. seq.*,
6 for among other things, unlawful, unfair or fraudulent business practices. These actions caused interference
7 with a contractual relationship, and intentional interference with prospective economic advantage.

8 Section 17200 defines unfair competition as "any unlawful, unfair or fraudulent business act or practice
9 and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1 (commencing
10 with *Section 17500*) of *Part 3 of Division 7 of the Business and Professions Code*."

11 Section 17203 authorizes the court to make orders necessary to restore real or personal property and
12 money "to any person in interest." The Legislature has used the term "person in interest" repeatedly in
13 contexts that confirm this understanding of its meaning. (See, e.g., §§ 17535, 19214; see also *Code Civ.*
14 *Proc.*, § 873.810; *Pub. Resources Code*, § 25966.) *Code of Civil Procedure section 1235.125* provides
15 further: "When used with reference to property, 'interest' includes any right, title, or estate in property."
16 "Interests in Property" are described in *Civil Code sections 678 through 703*.

17 Section 17203 provides that remedy and reads in its entirety: "Any person who engages, has engaged, or
18 proposes to engage in unfair competition may be enjoined in any court of competent jurisdiction. The *court*
19 *may make such orders* or judgments, including the appointment of a receiver, as may be necessary to
20 prevent the use or employment by any person of any practice which constitutes unfair competition, as
21 defined in this chapter, or *as may be necessary to restore to any person in interest any money* or property,
22 real or personal, *which may have been acquired by means of such unfair competition*." (Italics added.)

23 Thus, restitution is the only monetary remedy expressly authorized by section 17203. **This claim and the**
24 **resulting damages can only be established through expert testimony.** To allow this order excluding
25 plaintiff's chosen retained expert witnesses testimony and evidence, is oppressive, unconscionable,
26 prejudicial, a clear abuse of process and a gross miscarriage of justice!

27 **F. Justifiable Reliance by Plaintiff, and the Resulting Damages**

28 Plaintiff further demonstrates crucial prevailing evidence in establishing plaintiff's Breach of Good "Bad"
29 Faith, Breach of Insurance Contract, Intentional Infliction of Emotional Distress, Fraud, Abuse of Process
30 and Violation of California Business and Professionals Code §17,200 ET SEQ, causes of action and the
31 resulting damages with the triable issues of material fact, justifiable reliance by Plaintiff, and the resulting
32

1 damages ALL require and demand his chosen retained expert witnesses testimony and evidence with
2 respect to his causes of action listed herein. To allow this order is oppressive, unconscionable, prejudicial, a
3 clear abuse of process and a gross miscarriage of justice!

4 ***G. Waive of Fees for Indigents***

5 Plaintiff has previously established that he has an economic and financial hardship as declared and ordered
6 by the Superior Court on January 17, 2002 (**Sees order under Exhibit “C”**). Plaintiff has had no income
7 as a direct and proximate result of the Bad Faith of the defendants and their counsels, consorts, employees,
8 agents, contractors, etc. and must be relieved of the obligation to pay the four hours fees and defendants
9 deposition costs because of his statutory right to forma pauperis relief.

10 Most of the cases that deal with the rights of indigents in civil cases have been decided within the last fifteen
11 years. (E.g., Serrano v. Priest (1971) 5 Cal.3d 584 [96 Cal.Rptr. 601, 487 P.2d 1241] [increased state
12 funding for school districts located in low income neighborhoods]; Randone v. Appellate Department
13 (1971) 5 Cal.3d 536 [96 Cal.Rptr. 709, 488 P.2d 13] [attachment law violated debtor's right of due
14 process]; Earls v. Superior Court (1972) 6 Cal.3d 109 [98 Cal.Rptr. 302, 490 P.2d 814] [waiver of court
15 filing fees for indigents]; Conover v. Hall (1974) 11 Cal.3d 842 [114 Cal.Rptr. 642, 523 P.2d 682] [right
16 of welfare recipients to deduct work- related expenses]; Knight v. Hallsthammar (1981) 29 Cal.3d 46 [171
17 Cal.Rptr. 707, 623 P.2d 268] [right of low income tenants to decent housing]; Robbins v. Superior Court
18 (1984) 38 Cal.3d 199 [211 Cal.Rptr. 398, 695 P.2d 695] [right of general relief recipients to select
19 residence].)

20 Without overstating the matter, it would be extremely difficult conceptually for the Court to justify the order
21 for plaintiff to pay defendants witness deposition costs when defendants have NEVER sought to in the six
22 years before the order and since plaintiff is entitled to the right to waive court filing fees for indigents in
23 civil cases such as this as they have awarded Earls and Ferguson (Earls v. Superior Court (1971) 6 Cal.3d
24 109, 113 [98 Cal.Rptr. 302, 490 P.2d 814]; Ferguson v. Keays (1971) 4 Cal.3d 649, 652 [94 Cal.Rptr. 398,
25 484 P.2d 70]), which are set by the Legislature.

26 The court in Ferguson denoted certain minimum requirements that should be met by an applicant who
27 seeks to be excused from having to pay a filing fee. "[The] applicant should, at a minimum, submit (1) the
28 certificate of his counsel, declaring that he is familiar with the facts underlying the action or appeal, that in
29 his opinion his client's contentions have merit, and that the action or appeal is brought in good faith and not
30 for purposes of delay or harassment, and (2) the declaration of the applicant, executed under penalty of
31 perjury, stating that he is unable to pay the requisite filing fee without depriving himself or his dependents
32

1 of the necessities of life, and briefly setting forth the facts which disclose his indigence." (Ferguson v.
2 Keays, supra, 4 Cal.3d at p. 658.) In this instance, Plaintiff has already had this process completed and
3 ruled upon by the Superior Court six years ago, long before this order for payment of the fees and costs
4 and is applicable while he is acting in propria persona. Obviously, since that date, it is unnecessary to make
5 another declaration since plaintiff's condition has only worsened and good cause to excuse, vacate, or
6 amend this ordered payment exist. This is evidenced by the court's finding of indigency and the court's
7 finding of indigency remains uncontested. To allow this order excluding plaintiff's chosen retained expert
8 witnesses testimony and evidence, is oppressive, unconscionable, prejudicial, a clear abuse of process and a
9 gross miscarriage of justice!

10 **H. The Courts Order Blatantly Deprives Plaintiff of Due Process of Law**

11 Analyzing constitutional error to determine if it is harmless requires this court to find there has not been a
12 "miscarriage of justice." (Cal. Const., art. VI, § 13.) A miscarriage of justice occurs " 'only when the court
13 "after an examination of the entire cause, including the evidence," is of the "opinion" that it is reasonably
14 probable that a result more favorable to the appealing party would have been reached in the absence of the
15 error.' " (People v. Cahill, supra, 5 Cal. 4th at p. 492, quoting People v. Watson, supra, 46 Cal. 2d at p.
16 836.)

17 The main burden of the Court in granting this order excluding plaintiff's chosen retained expert witnesses
18 testimony and evidence is that of the Court's announced error in the unintelligible content and horrific affect
19 of the meaning of the courts order on plaintiff's chosen retained expert witnesses and the naming of any
20 replacements.

21 a. This ruling by the court was apparently made without the comprehension that the replacement experts are
22 anticipated and plaintiff's chosen retained expert witnesses named in the motion and amended disclosure
23 and unknowingly excluded by the court from being named as a result of the courts order; OR

24 b. perhaps by plaintiff's inadvertent mistake in filing the motion to amend and providing his chosen
25 replacement retained expert witnesses in the amended disclosure caused the courts confusion though the
26 motion was necessary; OR

27 c. there is a grammatical, syntax, or other sentence composition error that lead to the wording of the order
28 being unintelligible from the standpoint of interpretation and/or meaning in excluding his chosen retained
29 expert witnesses or naming the replacements; OR that

30 d. this ruling was made willfully and intentionally.

31 To allow this order excluding plaintiff's chosen retained expert witnesses testimony and evidence, is
32

1 oppressive, unconscionable, prejudicial, a clear abuse of process and a gross miscarriage of justice that will
2 result in a reversal on appeal, as it will violate plaintiff's rights under the Sixth Amendment to the United
3 States Constitution, as applicable to this state through the Fourteenth Amendment and the first clause of
4 Section 13 of Article I of our state Constitution.

5 More generally this order blatantly deprives plaintiff of due process of law and constitutes prejudicial error.
6 It is probable that the Court's error escaped the attention of the court and is a mistake by Judge Tigar or
7 Court personnel.

8 However, whether this order was a result of plaintiff's failure to be clear in a confusing motion, or by the
9 judge or court legal system on the part of the Clerk in composing the confusing order and it was entirely
10 related to the motion as written and ruled on, such a situation would always result in error requiring reversal,
11 and this court must be prepared to say that, in this case, the court's error requires reversal for this court to
12 "right the wrong,".

13 **I. C.C.P. Section 473 et. seq. Relief**

14 To obtain mandatory relief under section 473, plaintiff need not show that his or her mistake,
15 inadvertence, surprise or neglect was excusable. No reason need be given for the existence of one of these
16 circumstances. Attestation that one of these reasons existed is sufficient to obtain relief, unless the trial
17 court finds that the judgment did not occur because of these reasons. (See *Billings v. Health Plan of*
18 *America* (1990) 225 Cal. App. 3d 250, 255-256 [275 Cal. Rptr. 80].) This rule applies to the 1993
19 amendment which includes dismissal. (See *Tustin Plaza Partnership v. Wehage* (1994) 27 Cal. App. 4th
20 1557, 1563, fn. 6 [33 Cal. Rptr. 2d 366].)

21 You agree with the *Tustin* court that section 473 may be used by counsel to seek relief from failure to
22 oppose a motion to dismiss. (*Tustin Plaza Partnership v. Wehage*, supra, 27 Cal. App. 4th at pp. 1565-
23 1566; *Wilcox v. Ford* (1988) 206 Cal. App. 3d 1170, 1178 [254 Cal. Rptr. 138], although decided before
24 the amendment to section 473, its reasoning is still applicable.)

25 If this was court error, whatever the merits of the request, vacating or modifying the order is authorized
26 under C.C.P. § 473, paragraph 4, which permits the court, on motion, to "correct clerical mistakes in its
27 judgments or orders as entered, so as to conform to the judgment or order directed"

28 **J. Tigar Is Guilty Of Judicial Misconduct And Plaintiff Is Entitled to An Order to Vacate**
29 **and Set Aside or Modify In The Alternate The July 30, 2007 Order**

30 The herein documented misconduct of Judge Tigar excluding plaintiff's chosen retained expert witnesses
31 testimony and evidence, legally and practically prevents plaintiff from having a fair trial, wherein the
32

1 findings and award resulting from such misconduct must be annulled, and the matter remanded for further
2 proceedings. (*Reimer v. Firpo* (1949) 94 Cal.App.2d 798, 801 [212 P.2d 23]. See *Fidelity & Cas. Co. of*
3 *New York v. Workers' Comp. Appeals Bd.* (1980) 103 Cal.App.3d 1001, 1015-1016 [163 Cal. Rptr. 339];
4 *Hartford Accident & Indemnity Co. v. Workers' Comp. Appeals Bd.* (1982) 132 Cal.App.3d 796, 806-807
5 [183 Cal. Rptr. 440].)

6 In *Spruance v. Commission on Judicial Qualifications* (1975) 13 Cal.3d 778 [119 Cal.Rptr. 841, 532 P.2d
7 1209], the court removed a judge from office for acting with hostility toward an attorney, failing to properly
8 disqualify himself, maliciously attempting to prejudice a criminal defendant's case, attempting to influence
9 the disposition of criminal matters as a favor to friends and political supporters, and appointing friends and
10 supporters as attorneys in cases in which the defendant was not entitled to counsel at public expense. Tigar
11 has met the criterion mentioned here of judicial misconduct under *Spruance*, supra, that demand removal
12 form office.

13 Judge Tigar, abused the prerogatives of office in unfairly excluding plaintiff's chosen retained expert
14 witnesses testimony and evidence, intentionally exploited his judicial office to attempt to influence the
15 disposition of this matter. His conduct therefore constitutes willful misconduct. (*Spruance*, supra, 13
16 Cal.3d at p. 798.) and violated canon 2B of the Code of Judicial Conduct.

17 These same charges of willful misconduct and charges of prejudicial conduct led to removal of a judge in
18 *Gonzalez v. Commission on Judicial Performance* (1983) 33 Cal.3d 359 [188 Cal.Rptr. 880, 657 P.2d
19 372]. To allow this order excluding plaintiff's chosen retained expert witnesses testimony and evidence, is
20 oppressive, unconscionable, prejudicial, a clear abuse of process and a gross miscarriage of justice!

21 ***K. Tigar Is Guilty Of Abuse Of Discretion And Plaintiff Is Entitled to An Order to***
22 ***Vacate and Set Aside or Modify In The Alternate The July 30, 2007 Order***

23 The herein described indiscretions of Judge Tigar clearly fall within the confines of An Abuse of Discretion
24 as may be found when, all relevant circumstances considered, the trial court exceeded the bounds of reason,
25 or when no judge would reasonably make the same order under the same circumstances. *Rappleyea v.*
26 *Campbell*, (1994) 8 Cal.4th 975, 987 [35 Cal.Rptr.2d 669]. With every possible fiber of justice and
27 humanity in opposition and conflict with his order, Judge Tigar has simply abused any reasonable
28 discretion necessary to properly rule in this matter or in this case and he needs to recuse himself. Plaintiff is
29 entitled to an order to vacate and set aside the order; or in the alternate to modify the order compelling Tigar
30 to comply with the Court's lawful and proper administration of justice. To allow this order excluding
31 plaintiff's chosen retained expert witnesses testimony and evidence, is oppressive, unconscionable,
32

1 prejudicial, a clear abuse of process and a gross miscarriage of justice!

2 **19. The August 31 and September 7, 2008 Orders**

3 **A. Privileged Order Prohibits Plaintiffs' Primary Litigation Theories**

4 Error in a civil case is prejudicial "where it seems probable" that the error "prejudicially affected the
5 verdict." (See *Pool v. City of Oakland*, *supra*, 42 Cal.3d 1051, 1069; *LeMons v. Regents of University of*
6 *California*, *supra*, 21 Cal.3d 869, 875; *People v. Watson*, (1956) 46 Cal.2d 818, 836.) Of course, that
7 determination depends heavily on the particular nature of the error, including its natural and probable effect
8 on a party's ability to place his full case before the jury.

9 It is hornbook law that each party to a lawsuit is entitled to all of his theories of the case that are supported
10 by the pleadings and the evidence. It is incumbent upon the trial court to instruct on all vital issues involved.
11 (*Phillips v. G. L. Truman Excavation Co.* (1961) 55 Cal.2d 801, 806 [13 Cal.Rptr. 401, 362 P.2d 33].)

12 Furthermore, a trial court may not compel a litigant to rely on "abstract generalities in presenting its legal
13 theory of the case to the jury, but should instruct the jury on vital issues in terms that relate to the particular
14 case before it." (*Self v. General Motors Corp.* (1974) 42 Cal.App.3d 1, 10 [116 Cal.Rptr. 575]; see also
15 *Hasson v. Ford Motor Co.* (1977) 19 Cal.3d 530, 543 [138 Cal.Rptr. 705, 564 P.2d 857, 99 A.L.R.3d
16 158]; *Borenkraut v. Whitten* (1961) 56 Cal.2d 538, 545-546 [15 Cal.Rptr. 635, 364 P.2d 467]; *Phillips v.*
17 *G. L. Truman Excavation Co.*, *supra*, 55 Cal.2d at p. 806.)

18 The trial court here refused, without proper pleadings, many of plaintiffs' primary litigation theories, to wit,
19 that any acts of these and the underlying defendants, their counsels including Alford, agents employees,
20 contractors, and/or associates in the underlying trial could *not* have been proved as crucial prevailing
21 evidence of or a "substantial" or "contributing" cause of plaintiff's "enhanced" injuries or legal cause in
22 bringing them about in establishing plaintiff's Breach of Good "Bad" Faith, Breach of Insurance Contract,
23 Intentional Infliction of Emotional Distress, Fraud, Abuse of Process and Violation of California Business
24 and Professionals Code §17,200 ET SEQ, causes of action and the resulting damages with the triable issues
25 of material fact, justifiable reliance by Plaintiff, and the resulting damages. This court must further
26 acknowledge, the defendants actions form the primary lethal issues encapsulated a "major thrust" of the
27 litigation theory at trial.

28 Received in a factual vacuum and untethered to the specific theories proffered by plaintiff, to eliminate,
29 compromise or generalize his trial presentation would fail to provide the tailored nexus between facts and
30 law to which plaintiff is entitled, and which the jury manifestly requires. Hence, one must be compelled to
31 conclude that this factor weighs strongly in favor of a finding of prejudice.

32

1 The record evidence lends additional weight to this conclusion. The court must note that plaintiff has
2 produced "voluminous evidence" to demonstrate that these and the underlying defendants, their counsels
3 including Alford, agents employees, contractors, and/or associates actions and conduct was so severe that
4 they were a direct and proximate cause of plaintiff's injuries and would have occurred regardless of any
5 mitigating actions by plaintiff. One is apparently to infer, therefore, that if the jury was adequately apprised-
6 -based on the evidence, testimony and facts --of the law and logic underlying plaintiffs' theory of the case,
7 would suggest that the more reasonable inference is precisely that given the voluminous documentary and
8 testimonial evidence adduced at trial, the jury would be more clear and unambiguous to integrate and make
9 sense of the facts as they establish his case. Therefore, you must conclude that this factor as well supports a
10 finding of prejudice. Without this matter being properly adjudicated before trial, plaintiff will be forced to
11 rely on Tigar's ruling on motions in limine or instruction to the jury which he already does not trust for
12 good cause.

13 **B. Order Excluding Rescue Matter Prejudicial, A Clear Abuse of Discretion and The**
14 **Process, and a Gross Miscarriage of Justice**

15 At trial Plaintiff has the burden of proof by a preponderance of the evidence, the inferences he relies must
16 satisfy the "more likely than not" burden (*Leslie G. v. Perry & Associates, supra, 43 Cal. App. 4th at p.*
17 *487; Cf. Kidron v. Movie Acquisition Corp. All of these claims and the resulting damages can only*
18 **be established through expert testimony.**

19 Plaintiff asserts the trial court abused its discretion in ordering to exclude the Rescue matter denies many of
20 plaintiffs' primary litigation theories because it seeks to alter the course of his litigation and strategy that
21 clearly demonstrate an abuse of discretion, that "the error is prejudicial (Code Civ. Proc., § 475) and if not
22 corrected, it would result in a 'miscarriage of justice.'" (*Pool v. City of Oakland* (1986) 42 Cal.3d 1051,
23 1069 [232 Cal.Rptr. 528, 728 P.2d 1163], quoting Cal. Const., art. VI, § 13; *People v. Watson* (1956) 46
24 Cal.2d 818, 834 [299 P.2d 243].)

25 As an example, Judge Tigar's improper order makes it impossible for plaintiff to prove to the trier of fact
26 that any acts of these and the underlying defendants, their counsels including Alford, agents employees,
27 contractors, and/or associates in the underlying trial could *not* have been proved as crucial prevailing
28 evidence of or a "substantial" or "contributing" cause of plaintiff's "enhanced" injuries or legal cause in
29 bringing them about and what the duty of care defendants owed to plaintiff, that it was required of them to
30 perform up to the expected level of care as the claims adjustor, appraisal advisor and as the insurance
31 company party to the contract in establishing plaintiff's Breach of Good "Bad" Faith, Breach of Insurance
32

1 Contract, Intentional Infliction of Emotional Distress, Fraud, Abuse of Process and Violation of California
2 Business and Professionals Code §17,200 ET SEQ, causes of action and the resulting damages with the
3 triable issues of material fact, justifiable reliance by Plaintiff, and the resulting damages.

4 The court must concede that this is the duty of a jury (*Ishmael v. Millington*, supra, 241 Cal.App.2d at pp.
5 525-528; *Lysick v. Walcom*, supra, 258 Cal.App.2d at p. 150 ["Breach of duty is usually a fact issue for the
6 jury, but it may be resolved as a matter of law if the circumstances do not permit a reasonable doubt as to
7 whether the defendant's conduct violates the degree of care exacted of him."].) and can not argue that
8 defendants breaching their duty of care to plaintiff is an issue to be resolved by expert evidence regarding
9 the standard of care. (*Flowers v. Torrance Memorial Hospital*, supra, 8 Cal.4th at p. 1001; *Lipscomb v.*
10 *Krause*, supra, 87 Cal.App.3d at pp. 975-976; *Lysick v. Walcom*, supra, 258 Cal.App.2d at p. 156.) On this
11 and a multitude of other issue plaintiff is offering uncontroverted expert testimony and evidence that
12 establishes that the reasonably prudent insurance agent, adjustor, appraisal advisor, or company WOULD
13 NOT have done the same things, i.e.; fraud, extrinsic fraud, corruption, misconduct, interference with the
14 litigation privilege, deception, perjury, spoliation of evidence, subornation of perjurious testimony,
15 conspiracy, intentional infliction of emotional distress upon appellant and family, provided erroneous legal
16 advice, malpractice, denied coverage, misinterpreted policy, forced substandard repairs, bid rigging, hired
17 illegal unqualified contractors, committing the acts of procuring the appraisal awards through "corruption,
18 fraud, or other undue means"; colluding with the appraisers to "exceeded their powers", granting an
19 "award that cannot be corrected without affecting the merits of the decision upon the controversy
20 submitted", the improper use of "cash value" as replacement cost, use of erroneous "used cost" figures,
21 denial of coverage, injection of fraud, concealment, breach of contract, and coverage issues without any
22 reason or evidence, such that it justified the vacating of the appraisal award, among other things, under these
23 circumstances. **Each issue above is a crucial element in plaintiff prevailing in establishing every**
24 **one of plaintiff's causes of action and the resulting damages.** To allow this order excluding the
25 Rescue matter denies many of plaintiffs' primary litigation theories is oppressive, unconscionable,
26 prejudicial, a clear abuse of process and a gross miscarriage of justice!

27 The record contains no evidence showing what the standard of care would have required defendants to do
28 and what, if anything defendants did to perform that duty, while defendants has failed to establish, as a
29 matter of law, that their duty of care to plaintiff did not obligate them to perform as they did in this matter.
30 Therefore, defendants have not demonstrated that their actions satisfied the standard of care they owed to
31 plaintiff. The court and defendants must agree the record clearly shows that nothing was resolved at the
32 hearing by expert evidence, while all of the above occurred in this case that requires and demands expert

1 testimony, that to exclude plaintiff's chosen newly named retained expert witnesses by order from that
2 hearing is prejudicial and just such an abuse of discretion as described when the court has exceeded the
3 bounds of reason resulting in a miscarriage of justice. (*Shamblin v. Brattain* (1988) 44 Cal. 3d 474, 478
4 [243 Cal. Rptr. 902, 749 P.2d 339].) Encumbered under the horrific oppression of the unjust order,
5 Plaintiff will be burdened with the same standard to bear and same insurmountable obstacle to justice to
6 overcome to prevail in proving each one of his causes of action and the resulting damages.

7 Further, the herein described indiscretions of Judge Tigar clearly fall within the confines of An Abuse of
8 Discretion as may be found when, all relevant circumstances considered, the trial court exceeded the bounds
9 of reason, or when no judge would reasonably make the same order under the same circumstances.

10 *Rapplevea v. Campbell*, (1994) 8 Cal.4th 975, 987 [35 Cal.Rptr.2d 669]. With every possible fiber of
11 justice and humanity in opposition and conflict with his order, Judge Tigar has simply abused any
12 reasonable discretion necessary to properly rule in this matter or in this case and he needs to recuse
13 himself. Plaintiff is entitled to an order to vacate and set aside the order; or in the alternate to modify the
14 order compelling Tigar to comply with the Court's lawful and proper administration of justice. To allow
15 this order excluding plaintiff's chosen retained expert witnesses testimony and evidence, is oppressive,
16 unconscionable, prejudicial, a clear abuse of process and a gross miscarriage of justice!

17 **C. Denial of a Substantial Right at Hearing Requires Reversal**

18 There was an issue analogous to the one presented here, in the context of the previously well settled rule
19 that denial of a substantial right at the preliminary hearing in a criminal case rendered the ensuing
20 commitment illegal and entitled the defendant to have the information set aside on timely motion. (See, e.g.,
21 *People v. Naphthal* (1895) 105 Cal. 641, 644-645 [39 P. 29].) Litigants have sought and received relief to
22 compel the setting aside of an order before trial on the ground that, because of substantial error at the
23 preliminary hearing, their commitment for trial was illegal. (See, e.g., *Jennings v. Superior Court* (1967) 66
24 Cal.2d 867, 880-881 [59 Cal. Rptr. 440, 428 P.2d 304].) Applying reasoning embraced in *People v. Elliot*
25 (1960) 54 Cal.2d 498 [6 Cal. Rptr. 753, 354 P.2d 225] that the denial of a substantial right at the
26 preliminary hearing required reversal of a subsequent conviction without a showing of prejudice. These
27 irregularities in preliminary hearing procedures must be reviewed under the appropriate standard of and for
28 prejudicial error.

29 The courts have acknowledged that an exception may be made to the general rule that an error does not
30 require reversal absent a showing of prejudice when the error involves a structural defect in the conduct of
31 the proceedings that results in an unfair trial or "defies evaluation for harmlessness." (*Soule v. General*
32

1 *Motors Corp.*, *supra*, 8 Cal.4th at p. 579; see *People v. Cahill*, *supra*, 5 Cal.4th at p. 501.) The actual type
2 of fundamental defect that constitutes a miscarriage of justice and requires reversal of the trial court's
3 pretrial order is clearly this same type of material prejudice in its fundamental or strict sense.

4 In these circumstances, it is impossible for this or a reviewing court not to conclude that "a different result
5 would have been probable if such error ... or defect had not occurred or existed." (Code Civ. Proc., § 475.)
6 If a trial court proceeds to issue a judgment with the current order in place, a different result would be
7 inevitable if the error had not occurred, because in the absence of error the case would have been litigated in
8 an entirely different manner.

9 **D. Reversal of Orders Appropriate and Consistent with California Constitution,**
10 **Article VI, Section 13. 2**

11 In this situation, the reviewing court readily can ascertain that the errors had a major effect on the outcome
12 of the case and that the result would have been the grossly different if the error had not occurred and the
13 trial had been fair and just as necessary or effective to ensure a party's right to preserve their legal rights,
14 including constitutional rights, that are subject of harmful error.

15 Rejecting the erroneous rulings here requires reversal in order to deter improper legal and judicial conduct
16 because to recognize the possibility that an error may be deemed *harmless* does not transform a trial court's
17 erroneous action into a *correct* one, nor does it encourage trial courts to act lawfully. If the trial court
18 correctly interprets and follows the mandate of Code of Civil Procedure, or if the trial court does not
19 understand or follow the law, the appellate court has the authority to protect the appealing party's interests,
20 as well as its own power to act to require the trial court to comply with the law.

21 If the judgment is tainted by the trial court's erroneous actions, reversal of the judgment would be
22 appropriate and consistent with California Constitution, Article VI, Section 13. 2 Reversing a judgment that
23 ultimately was affected by the prejudicial order, however, does not further the interests of justice in any way
24 and is necessary to enforce the requirements of Code of Civil Procedure.

25 It is true that if it is ultimately determined that the plaintiff should not have been required to go to trial under
26 the circumstances caused by the prejudicial order, a reversal of the judgment will not totally cure the harm
27 because plaintiff already will have been required to bear the anxiety and expense of a trial. But the
28 inadequacy of a trial reversal as a complete remedy exists whether reversal is mandated on a per se basis
29 (based on the theory that the trial court's error resulted in prejudice in the fundamental sense) or is
30 mandated only upon a finding that the error actually was prejudicial and unwarranted as it invokes such a
31 lack of fundamental unfairness that it compels a reversal of the order when it is clear that the error did affect
32 the validity of the trial judgment.

1 **E. Orders Unjustifiably Prevent a Trial On The Merits**

2 This court is not powerless to enforce rules of procedure where justice demands it. Indeed, it has shown
3 itself ready to adapt rules of procedure to serve the ends of justice where technical issues would
4 unjustifiably prevent a trial on the merits. (*Wennerholm v. Stanford University School of Medicine*, 20
5 Cal.2d 713 [128 P.2d 522, 141 A.L.R. 1358]; *Christin v. Superior Court*, 9 Cal.2d 526 [71 P.2d 205, 112
6 A.L.R. 1153]; *Tuller v. Superior Court*, 215 Cal. 352 [10 P.2d 43]; see 31 Cal.L.Rev. 225, 227; see, also,
7 *Rogers v. Duhart*, 97 Cal. 500, 504 [32 P. 570]; California Constitution, art. VI, § 4 1/2; Code Civ. Proc.,
8 §§ 355, 356, 473, 475; Civ. Code, §§ 3523, 3528.) The Wennerholm case, *supra*, is typical.

9 The motions were filed and the court refused to follow the law and cases that had established the litigation
10 of which this case is sought upon, the same general set of facts as the underlying action, and still being the
11 same as in the present case, plaintiff brought his action on his litigation theories and diligently pursued it.
12 The prejudicial order is erroneous and central to the merits of the case and proving the causes of action.
13 Since this action is in reality a continuance of the earlier underlying action involving the same parties, facts,
14 and most causes of action, plaintiff should not be deprived of a trial on the merits because the judge refused
15 to acknowledge the merits, denying the jury as the trier of fact the opportunity to do so, and did not
16 consider other remedies in the prejudicial pretrial court order.

17 The statutes herein referred are not so rigid as they are sometimes regarded. Under certain circumstances
18 the rights or immunities may be acquired as a statutory result of or by the occurrence of certain events,
19 which may be the subject of conflicting evidence or testimony and may be extended by causes not
20 mentioned in the statute itself.

21 The notion that the actions of these and the underlying defendants, their counsels including Alford, agents
22 employees, contractors, and/or associates are immaterial and irrelevant to the present litigation and that this
23 court should not vacate or modify the prejudicial order, is remiss. But if it is to be considered as stated, it is
24 incorrect, because the rule now applied is said to be one of relevance, but it determines the substantive rights
25 of the parties and, in addition, operates retroactively to interfere with vested rights acquired by virtue of the
26 term of the policy contract, statutory law and the Insurance Code. And if the remedy is a part of the
27 common law, it certainly directly conflicts with constitutional and statutory provisions. The question for
28 decision is readily determinable by fundamental principles which have long been recognized and applied.

29 **F. Sanctions**

30 Plaintiff has previously established that he has an economic and financial hardship as declared and ordered
31 by the Superior Court on January 17, 2002 (order attached as Exhibit “E”). Plaintiff has had no income as
32

1 a direct and proximate result of the Bad Faith of the defendants and their counsels, consorts, employees,
2 agents, contractors, etc. and must be relieved of the obligation to pay the four hours fees and defendants
3 deposition costs because of his statutory right to forma pauperis relief.

4 Most of the cases that deal with the rights of indigents in civil cases have been decided within the last fifteen
5 years. (E.g., Serrano v. Priest (1971) 5 Cal.3d 584 [96 Cal.Rptr. 601, 487 P.2d 1241] [increased state
6 funding for school districts located in low income neighborhoods]; Randone v. Appellate Department
7 (1971) 5 Cal.3d 536 [96 Cal.Rptr. 709, 488 P.2d 13] [attachment law violated debtor's right of due
8 process]; Earls v. Superior Court (1972) 6 Cal.3d 109 [98 Cal.Rptr. 302, 490 P.2d 814] [waiver of court
9 filing fees for indigents]; Conover v. Hall (1974) 11 Cal.3d 842 [114 Cal.Rptr. 642, 523 P.2d 682] [right
10 of welfare recipients to deduct work- related expenses]; Knight v. Hallsthammar (1981) 29 Cal.3d 46 [171
11 Cal.Rptr. 707, 623 P.2d 268] [right of low income tenants to decent housing]; Robbins v. Superior Court
12 (1984) 38 Cal.3d 199 [211 Cal.Rptr. 398, 695 P.2d 695] [right of general relief recipients to select
13 residence].)

14 Without overstating the matter, it would be extremely difficult conceptually for the Court to justify the order
15 for plaintiff to pay sanctions when he merely suggested the court consider it's option for depositions in an
16 effort to facilitate the trial, for judicial economy, to clarify this outstanding omission and give the courts a
17 chance to enforce the law before trial and motions in limine to ensure a fair trial on the merits again without
18 the loss of time and increase costs and since plaintiff is entitled to the right to waive court filing fees for
19 indigents in civil cases such as this as they have awarded Earls and Ferguson (Earls v. Superior Court
20 (1971) 6 Cal.3d 109, 113 [98 Cal.Rptr. 302, 490 P.2d 814]; Ferguson v. Keays (1971) 4 Cal.3d 649, 652
21 [94 Cal.Rptr. 398, 484 P.2d 70]), which are set by the Legislature.

22 The court in Ferguson denoted certain minimum requirements that should be met by an applicant who
23 seeks to be excused from having to pay a filing fee. "[The] applicant should, at a minimum, submit (1) the
24 certificate of his counsel, declaring that he is familiar with the facts underlying the action or appeal, that in
25 his opinion his client's contentions have merit, and that the action or appeal is brought in good faith and not
26 for purposes of delay or harassment, and (2) the declaration of the applicant, executed under penalty of
27 perjury, stating that he is unable to pay the requisite filing fee without depriving himself or his dependents
28 of the necessities of life, and briefly setting forth the facts which disclose his indigence." (Ferguson v.
29 Keays, supra, 4 Cal.3d at p. 658.) In this instance, Plaintiff has already had this process completed and
30 ruled upon by the Superior Court six years ago, long before this order for payment of the fees and costs
31 and is applicable while he is acting in propria persona. Obviously, since that date, it is unnecessary to make
32

1 another declaration since plaintiff's condition has only worsened and good cause to excuse, vacate, or
2 amend this ordered payment exist. This is evidenced by the court's finding of indigency and the court's
3 finding of indigency remains uncontested. To allow this order forcing plaintiff to pay sanctions for
4 suggesting options to the court is oppressive, unconscionable, prejudicial, a clear abuse of process and a
5 gross miscarriage of justice!

6 **G. "Discovery" and "Re-Open Discovery" Titles in Order**

7 The subject of those motions which the court wants to characterize as "discovery" and an attempt to
8 "reopen discovery" is clearly in violation Plaintiff's right to plead and asks the court to consider it options
9 for TRIAL and in the alternate to exercise it's discretion to facilitate the TRIAL and for judicial economy.
10 Plaintiff NEVER filed a discovery motion and requested only depositions. Even the requested and legally
11 required witness information was for TRIAL, NOT DEPOSITIONS! Plaintiff has tried many times to
12 secure the requested testimony and documents from these and the underlying defendants and their
13 attorneys Alford and the law firm of Gordon & Rees as they will be a primary subject of Plaintiff's
14 litigation in this case. Regardless of this labeling, these are clearly not a "discovery motion" nor an attempt
15 to "reopen discovery" as the substance plead and suggested options in the alternate are for TRIAL. The
16 title of the document, motion or law does not make the law. (*DaFonte v. Up-Right, Inc.* (1992) 2 Cal. 4th
17 593, 602 [7 Cal. Rptr. 2d 238, 828 P.2d 140] ["Title or chapter headings are unofficial and do not alter the
18 explicit scope, meaning, or intent of a statute."]; see also *Garat v. City of Riverside* (1991) 2 Cal. App. 4th
19 259, 302 [3 Cal. Rptr. 2d 504] ["The mere use of different names for certain categories . . . does not prove
20 that the uses are inconsistent or mutually exclusive; 'What's in a name? That which we call a rose/ By any
21 other name would smell as sweet.' (Shakespeare, Romeo and Juliet, act II, scene 2, line.

22 **H. The Courts Order Blatantly Deprives Plaintiff of Due Process of Law**

23 Analyzing constitutional error to determine if it is harmless requires this court to find there has not been a
24 "miscarriage of justice." (Cal. Const., art. VI, § 13.) A miscarriage of justice occurs " 'only when the court
25 "after an examination of the entire cause, including the evidence," is of the "opinion" that it is reasonably
26 probable that a result more favorable to the appealing party would have been reached in the absence of the
27 error.' " (*People v. Cahill*, supra, 5 Cal. 4th at p. 492, quoting *People v. Watson*, supra, 46 Cal. 2d at p.
28 836.)

29 The main burden of the Court in granting this order excluding the Rescue matter denies many of plaintiffs'
30 primary litigation theories is that of the Court's announced error has a horrific affect on his case, is
31 oppressive, unconscionable, prejudicial, a clear abuse of process and a gross miscarriage of justice that will
32

1 result in a reversal on appeal, as it will violate plaintiff's rights under the Sixth Amendment to the United
2 States Constitution, as applicable to this state through the Fourteenth Amendment and the first clause of
3 Section 13 of Article I of our state Constitution.

4 The act of ordering sanctions for the "discovery" issues are equally disingenuous and prejudicial.
5 More generally this order blatantly deprives plaintiff of due process of law and constitutes prejudicial error
6 and such a situation would always result in error requiring reversal, and this court must be prepared to say
7 that, in this case, the court's error requires reversal for this court to "right the wrong,".

8 **20. Judge Tigar's Conduct and Actions**

9 Corrupt misconduct in this case has taken on pandemic proportions. The overall white race, class, and
10 privilege exposed by the egocentric Tigar teaches love of wealth and things, develops desire for physical
11 and financial power and minimizes respect for others, their race, values and religion. His legal rulings in his
12 orders striking challenges and for the defendants has become a mere "feel good" knee jerk reaction in
13 retaliation to plaintiff's demand for truth and justice, which has no legal basis, nor sense of direction or
14 purpose besides the destruction of plaintiff, his family, clients, business and community.

15 The cult of judges, a virulently close minded group, are known in this case for their rulings embodying
16 judicial corruption, misconduct, conduct prejudicial, illegal ex-parte communications, influencing the
17 outcome of the case, bias, is rampant. This legal lynching of plaintiff has been deliberate and systematic as
18 plaintiff continues to protest the degradation and humanity of him and his family by these judges and
19 defendants with this sinister image they are disseminating of him. The race factor is never too far from the
20 hatred and insensitivity displayed in these judges and defendants. This makes the massacre of Plaintiff, his
21 family, business and community being carried out by the judicial and named defendants and their counsel
22 in this and the underlying Rescue Industries case, possible by the courts. The same court system is
23 supposedly guarding the rights of Plaintiff and the Public but they have done NOTHING but the opposite
24 as they have aided and abetted the defendants as they have gone in slaughtering plaintiff's interests. The
25 defendants with the support of the notorious Tigar and the cult of judges, have produced a complete and
26 utter desecration of Plaintiff's rights under the guise of "justice". Plaintiff will not stand these
27 abridgments and abuses of his rights and will implore the public into action against this kind of blind hatred
28 and injustice emanating from these legal entities.

29 A. CODE OF CIVIL PROCEDURE SECTION 170-170.4

30 CODE OF CIVIL PROCEDURE SECTION 170-170.4 reads as follows:

31 170.1. (a) A judge shall be disqualified if any one or more of the following is true:

32 (1) (A) The judge has personal knowledge of disputed evidentiary facts concerning the proceeding.

(6) (A) For any reason:

- 1 (i) The judge believes his or her recusal would further the interests of justice.
- 2 (ii) The judge believes there is a substantial doubt as to his or her capacity to be impartial.
- 3 (iii) A person aware of the facts might reasonably entertain a doubt that the judge would be able to be impartial.
- 4 (B) Bias or prejudice toward a lawyer in the proceeding may be grounds for disqualification.

5 170.3. (a) (1) If a judge determines himself or herself to be disqualified, the judge shall notify the presiding judge of the court of his or her recusal and shall not further participate in the proceeding, except as provided in Section 170.4, unless his or her disqualification is waived by the parties as provided in subdivision (b).

7 (2) There shall be no waiver of disqualification if the basis therefor is either of the following:

8 (A) The judge has a personal bias or prejudice concerning a party.

9 (4) If grounds for disqualification are first learned of or arise after the judge has made one or more rulings in a proceeding, but before the judge has completed judicial action in a proceeding, the judge shall, unless the disqualification be waived, disqualify himself or herself, but in the absence of good cause the rulings he or she has made up to that time shall not be set aside by the judge who replaces the disqualified judge.

10 (c) (1) If a judge who should disqualify himself or herself refuses or fails to do so, any party may file with the clerk a written verified statement objecting to the hearing or trial before the judge and setting forth the facts constituting the grounds for disqualification of the judge. The statement shall be presented at the earliest practicable opportunity after discovery of the facts constituting the ground for disqualification. Copies of the statement shall be served on each party or his or her attorney who has appeared and shall be personally served on the judge alleged to be disqualified, or on his or her clerk, provided that the judge is present in the courthouse or in chambers.

15 170.4. (a) A disqualified judge, notwithstanding his or her disqualification may do any of the following:

16 (3) A party may file no more than one statement of disqualification against a judge unless facts suggesting new grounds for disqualification are first learned of or arise after the first statement of disqualification was filed. Repetitive statements of disqualification not alleging facts suggesting new grounds for disqualification shall be stricken by the judge against whom they are filed

18 This challenge for cause seeking to disqualify judge Tigar convincingly presents the case for judicial
19 recusal under Code of Civil Procedure sections 170.1- 170.4 above, specifically 170.1, subdivision
20 (a)(6)(C). n1 (Stats. 1984, ch. 1555.) This proceeding touches upon the core of the judicial process -- the
21 appearance of objectivity of the decision maker -- requiring a careful balancing of the affected interests. The
22 court must consider both the public's right to be assured of the fair, but yet efficient, resolution of disputes
23 and the parties' right to a decision based upon the court's objective evaluation of the facts and law. (See *In*
24 *re United States* (1st Cir. 1981) 666 F.2d 690, 694.) The tension between the appearance of fairness and
25 efficiency should be self-evident. The difference between the appearance of fairness generally and the
26 perception of fairness as seen by a party or his or her counsel should also be self-evident. With ever
27 mounting litigation, judicial disqualification has and will undoubtedly continue to increase as will those of
28 judicial disqualification during trial. This case is ripe for such ruling as you must understand judge Tigar's
29 conduct, actions and personality has "make a world of difference when it comes to rulings on evidence, the
30 temper of the courtroom, the tolerance for a proffered defense, and the like." (*Chandler v. Judicial Council*
31 (1970) 398 U.S. 74, 137 [26 L.Ed.2d 100, 137-138, 90 S.Ct. 1648] (dis. opn. of Douglas, J.).)

1 Nonetheless the proper performance of judicial duties does require a judge to withdraw from a matter every
2 time an advocate positively asserts the objective and fair judge *appears* to be biased. The duty of a judge to
3 sit where not disqualified is equally as strong as the duty not to sit when disqualified. (See Laird v. Tatum
4 (1972) 409 U.S. 824 [34 L.Ed.2d 50, 93 S.Ct. 7] On the facts of this case, you must grant this writ.

5 B. Section 6068

6 Section 6068 obliges a judge and attorney to "support the Constitution and laws" (subd. (a)) and "maintain
7 the respect due to the courts of justice and judicial officers" (subd. (b)). Under section 6106, "any act
8 involving moral turpitude, dishonesty or corruption, whether the act is committed in the course of his
9 relations as an attorney or otherwise, . . . constitutes a cause for [a lawyer's] disbarment or suspension."
10 (Italics added.) We conclude that, under certain circumstances, an attorney's disobedience, even when he
11 acts in a nonprofessional or personal capacity, violates section 6068, subdivisions (a) and (b), and
12 constitutes "moral turpitude" within the meaning of section 6106.

13 Multiple acts of misconduct involving moral turpitude and dishonesty warrant disbarment. (See std. 2.3,
14 Stds. for Atty. Sanctions for Prof. Misconduct, div. V, Rules Proc. of State Bar; compare Dixon v. State
15 Bar (1982) 32 Cal.3d 728, 739, 740 [187 Cal.Rptr. 30, 653 P.2d 321].) Tigar's pattern of serious, recurrent
16 misconduct is a factor in aggravation. (Garlow v. State Bar (1988) 44 Cal.3d 689, 711 [244 Cal.Rptr. 452,
17 749 P.2d 1307].)

18 It is evident that Tigar has no appreciation for the fair, just and proper administration of justice, nor equity
19 under the law and is totally at odds with the judicial and legal professional standards of this state and
20 country. Disqualification as a judge and disbarment as an attorney would thus be necessary to protect the
21 public, and preserve confidence in the profession, and maintain high professional standards. (Ainsworth v.
22 State Bar (1988) 46 Cal.3d 1218, 1235 [252 Cal.Rptr. 267, 762 P.2d 431].)

23 Dishonest acts in court are a basic violation of a judge or attorney's role, oath, and duties. (Bus. & Prof.
24 Code, § 6068, subds. (a), (b), (d); State Bar Rules Prof. Conduct, rule 7-105.) We have condemned such
25 conduct in the strongest terms. (E.g., Davis v. State Bar (1983) 33 Cal.3d 231, 239-240 [188 Cal. Rptr.
26 441, 655 P.2d 1276]; Olguin v. State Bar (1980) 28 Cal.3d 195, 199-200 [167 Cal. Rptr. 876, 616 P.2d
27 858].)

28 C. The Canons of the Code of Judicial Conduct

29 In the Canons of the Code of Judicial Conduct. Although these canons do not have the force of law or
30 regulation, "they reflect a judicial consensus regarding appropriate behavior" for California judges. (
31 Kloepfer v. Commission on Judicial Performance (1989) 49 Cal. 3d 826, 838, fn. 6 [264 Cal. Rptr. 100,
32

1 782 P.2d 239, 89 A.L.R.4th 235]; see *Cannon v. Commission on Judicial Qualifications* (1975) 14 Cal. 3d
2 678, 707, fn. 22 [122 Cal. Rptr. 778, 537 P.2d 898].) The failure of a judge to comply with the canons
3 "suggests performance below the minimum level necessary to maintain public confidence in the
4 administration of justice." (*Kloepfer v. Commission on Judicial Performance*, supra, 49 Cal. 3d at p. 838,
5 fn. 6.)

6 An impartial and independent judiciary is indispensable to our legal system. Of equal importance is
7 public confidence in the independence and integrity of the judiciary, because the effective functioning of our
8 legal system is dependent upon the public's willingness to accept the judgments and rulings of the courts.
9 (Cal. Code Jud. Conduct, com. to canon 1.) Plaintiff argues that Tigar's conduct and actions described
10 herein violate Cannons 1, 2, 2A, 2B(2), 3B(2), 3B(4), 3B(5) and 3B(8) and the court can not allow this type
11 of willful misconduct in office and conduct prejudicial to the administration of justice (moral turpitude,
12 corruption, and dishonesty) that brings the judicial office into disrepute. (Art. VI, § 18, subd. (c).)

13 D. Tigar is A Litigant- A Defendant, A Co-Defense Counsel

14 Tigar's actions are void of any legal basis, moral conviction, ethical reason nor merit as Tigar has failed and
15 refused to provided the truth of his statements and actions nor any information sought relative thereto and
16 has fostered his relationship, involvement and business with Defendants CSAA, and their defense counsel
17 Ropers Majeski, a law firm with six offices and 200 lawyer, as they represented his interest BEFORE
18 HIMSELF as judge in their opposition to his staged recusal in April 2007 allowing him to continue as
19 judge in this matter. They have mutually curried each others favor, and Tigar has subsequently ruled in
20 favor of the the defense counsels, underlying defendants Rescue Rooter, City of Oakland, and the defense
21 counsel in the underlying case of Rescue Rooter, yet has offered no explanation whatsoever for any of the
22 false statements, through this denial asserts he had no obligation to advise Plaintiff of the truth even though
23 he was aware of the misrepresentations. On July 26, 2007 defendants, in a brazen move, decided to remove
24 any veil of their alliance with Tigar and submitted a two page letter citing CCP 170.4 and 1209 threatening
25 to file a motion to enjoin Plaintiff from filing any challenges, to dismiss the suit and ask Plaintiff be held
26 for contempt! (See letter attached under **Exhibit "C"**) This effort is clearly their assertion of their
27 influence over the case that they have exercised over the years and why so many judges have been found to
28 have been tainted in this case. These are very difficult circumstances for defendants and defendant judge
29 Tigar to explain away and for Plaintiff to overcome.

30 The end cannot be assumed based on the notion of Tigar's and defendants dogmas, which cannot replace
31 truth to explain the facts of human reality. When facts live in denial, dogmas construct dark illusions to
32 assert the defendants judicial agenda for encroachment of human rights, dignity and being made whole.

1 Plaintiff's search for justice itself confirms the preexistence of bias and injustice. Justice, fairness and
2 societal harmony cannot be preached in the name of "litigation" which is illegal in fact and nature and
3 systematic torture of Plaintiff, his family, clients, business, community and the citizens of this nation.
4 Targeted victims such as these look to human conscience to stop the continued insurance defense and
5 judicial cruelty, violations of human rights and travesty of justice. Those whose lives have been destroyed
6 by the false official claims of defendants and defendant judge Tigar and their incestuous relationship ask
7 the living and THINKING People of the globe, could there be two distinct orders of truth?
8 Tigars actions and conduct is criminal and motivated by invidious bias, prejudice, disdain and bigotry
9 toward Plaintiff and particular groups not only harm individual victims but send a powerful message of
10 intolerance and discrimination to all members of the group to which the victim belongs. This type of
11 conduct can be characterized as a hate crime and is done to intimidate and disrupt entire communities and
12 vitiate the civility that is essential to a healthy judicial and democratic fair process. All these parties are
13 lawyers in the United States of America where as such, they have all taken an oath obligating them to
14 defend the Constitution and the rule of law. We believe the defendants, defendant judge Tigar and the court
15 administration has committed numerous offenses against the Constitution and have violated federal laws
16 and obstructed constitutional oversight.

17 Plaintiff was already called on the U. S. Attorney General whom has authorized a criminal investigation that
18 Plaintiff has continued with the congressional offices of Barbara Lee, and Charles Rangel to provide the
19 documents and findings to House Judiciary Chairman John Conyers and Senate Judiciary Chairman
20 Patrick Leahy to launch hearings into the possibility that crimes have been committed by these defense
21 parties, the judges involved in this case since 1999, the court administration in both Superior and the
22 Appellate Court levels in violation of the Constitution advocating the investigations to go where they must,
23 including into the offices of all those involved. The majority of lawyers and people in this country
24 understand that this type of conduct has really gone off the page of constitutional rights and off the page of
25 fundamental rights, and this Congress is willing to push to restore those rights. These congressmen are
26 dismayed that a case like this can exist and has failed while the defendants and court has been given a
27 "pass" on key illegalities that intimate secret special programs that foretells scandal and the minimal that
28 absolutely is needed to get us back on the page of law is to have serious investigative hearings that go up
29 the chain of command and figure out who is responsible for what. Plaintiff and these Congressmen
30 acknowledge even with regard to the US Attorney General's continuing minimal investigation that was never
31 thought of as thorough, where Congressional committees held parties in contempt, congressional leadership
32 will not fail to enforce these actions. These Congressmen do not feel that just announcing that

1 investigations will be held and subpoenas will be issued is terribly sufficient, they are willing to enforce the
2 subpoenas by issuing contempt citations. Congress has a constitutional duty to oversee the activities of
3 these types of individuals and our entire system of government is threatened by this when Congress simply
4 folds before an obstinate guilty party. Issuing contempt citations against these parties will be Congress's
5 first order of post trial business in this matter. This is a vital effort by those charged with defending our
6 constitution, it's a way of Congress saying 'we have some fortitude and integrity, we need to have a serious
7 investigation, wherever it might go, on these issues that really have taken the United States out of the
8 mainstream of human rights. It's absolutely critical to shut the door to illegality and have accountability on
9 those illegalities or we're going to be facing a very bleak future in which fundamental rights will not really
10 be obeyed.

11 Tigar's representation by the defendants has the unfortunate consequence of making the judge a litigant,
12 obliged to the defense and their counsel by leaving his defense to one of the litigants appearing before him
13 in the same case. (*Kerr v. United States District Court, supra, 426 U.S. at pp. 402-403 [48 L.Ed.2d at p.*
14 *732].*) Judges should be umpires rather than players.

Judge Tigar is Gulty of:

1. Willful Misconduct

17 This pleading contains allegations suggesting serious unjudicial conduct, including bias against Judge
18 Tigar, and attributes statements to him that suggest that he has prejudged contested issues in the matter
19 pending before him and that an appearance of impropriety has arisen and that the fairness of the
20 proceedings has been fundamentally and irreparably compromised. Therefore, and because the interests of
21 justice require that the trial proceed free of questions concerning fundamental fairness to all concerned, the
22 Court must determined that the proceedings should not continue before the current judge, and that a new
23 judge be appointed by this Court, and should proceed to hear and take evidence thereon.

24 Judge Tigar's conduct, actions and orders tends to incite dissension, provoke retaliation for retaliation, is
25 against constitutional principles of comity between the court and parties, and disturb that fundamental
26 equality of civil rights and due process which is the basis of justice and the Constitution itself.

27 Tigar engaged in conduct that violated canon 2A of the Code of Judicial Ethics, which requires that judges
28 respect and comply with the law, and canon 3B(2), which requires that judges be faithful to the law.

29 Accordingly, the court will find that Judge Tigar's orders and conduct reflects a purpose other than the
30 faithful discharge of judicial duty, and was at minimum improper action within the meaning of article VI,
31 section 18, subd. (d)(3) of the California Constitution, and his false and misleading assertions were in
32 violation of the Code of Judicial Ethics, canons 1, 2, 2A and 2B; was willful misconduct in office, persistent

1 failure or inability to perform his duties in a fair and just manner, conduct prejudicial to the administration
2 of justice that brings the judicial office into disrepute, or improper action within the meaning of article VI,
3 section 18(d), of the California Constitution providing for removal, censure, or public or private
4 admonishment of a judge or former judge.

5 Judge Tigar is charged with willful misconduct in office, conduct prejudicial to the administration of justice
6 that brings the judicial office into disrepute and improper action within the meaning of article VI, section 18
7 of the California Constitution providing for removal, censure, or public or private admonishment of a judge
8 to wit:

9 A: In these cases where he withheld issuing the orders until he knew Plaintiff was away and then acted on
10 the orders after the applicable deadlines for Plaintiff to legally and properly respond, thus forcing Plaintiff
11 to forfeit his civil rights and right to due process. Tigar's conduct violated the Code of Judicial Ethics,
12 canons 1, 2A, 3A, and 3B(8).

13 B: There are statements at bench that Tigar has made under oath at every hearing, affidavits Tigar signed in
14 response to Plaintiff' Challenges for Cause were and are intentionally false while each order has been
15 replete with willful and intentional prejudicial error. On each occasion, he signed his Reply to Plaintiff's
16 Challenges for Cause, certifying under penalty of perjury that the information was true and correct, when he
17 knew that it was not, thus having made false statements under penalty of perjury, and engaged in
18 inappropriate activity to cover it up in violation of the Code of Judicial Ethics, canons 1, and 2A.

19 C: Tigar's lying under oath; calling Plaintiff a liar without any substantiation or justification; entitling
20 orders for his convenience to deny them and avoid appellate review; entitling orders for his convenience to
21 deny them and issues sanctions; irresponsible failure as a judge to read, interpret, and apply the applicable
22 laws "goes beyond mere negligence"; conduct falls into the category of misconduct by a judge as arising
23 out of conduct which is done in bad faith violated the Code of Judicial Ethics, canons 1, 2A, 3A, and 3B(8).

24 D: At the bench, he said words to the effect of, **"You will not get what you want" "you have attacked**
25 **judges"** and knew it is not appropriate to state, inquire or comment as to why Plaintiff exercised a 170.1
26 challenge. His conduct in response to the filing of the challenges was improper and violated the Code of
27 Judicial Ethics, canons 1 and 2A.

28 E: His comments in open court regarding the fact that plaintiff had filed a peremptory challenge against him
29 and other judges under Code of Civil Procedure section 170; instructing Plaintiff not to mention his perjury
30 or to speak his own truth; and threatened retaliation to charge him with contempt when plaintiff refused to
31 back off his charges of the judges perjury, deceit, and willful misconduct; violated the Code of Judicial
32 Ethics, canons 1, 2A, 3A, and 3B(8).

1 The charges assert such behavior violated canons 1 and 2A. As we display, there is clear and convincing
2 evidence Judge Tigar threatened to find Plaintiff in contempt. When a 170.1 challenge is properly and
3 timely filed, a judge must truthfully and competently answer in a timely manner or accept the
4 disqualification without inquiry. (McCartney v. Commission on Judicial Qualifications (1974) 12 Cal.3d
5 512, 531-532.) Judge Tigar can not dispute the validity of Plaintiff's 170.1 challenges and the charges
6 prove he again violated canons 1 and 2A as he failed to maintain the high standard of conduct required of a
7 judge and acted without integrity.

8 All three elements of willful misconduct within the meaning of Article VI, section 18(d) of the California
9 Constitution are present. Judge Tigar's conduct was:

- 10 1) unjudicial and
- 11 2) committed in his judicial capacity;
- 12 3) he committed an act he knew was beyond his lawful power and thus acted in bad faith. (See Broadman v.
13 Commission on Judicial Performance (1998) 18 Cal.4th at p. 1091.) This concludes there was willful
14 misconduct under the Broadman standard.

15 Plaintiff request this order that Judge Tigar be removed from this matter because of his dishonesty in
16 connection with his lying under oath; deceit in addressing the issues of his evasive and non responsive
17 answers to the challenges for cause; his ongoing willful abuse of process with the issuing and serving of
18 orders; calling Plaintiff a liar without any substantiation or justification; entitling orders for his convenience
19 to deny them and avoid appellate review; entitling orders for his convenience to deny them and issues
20 sanctions; withholding orders to deny Plaintiff's civil rights and right to due process; misapplying the rule
21 of law; not reading, interpreting, applying and therefore not abiding by the law; his comments in open court
22 regarding the fact that plaintiff had filed a peremptory challenge against him and other judges under Code
23 of Civil Procedure section 170, instructing Plaintiff not to mention his perjury or to speak his own truth and
24 threatened retaliation to charge him with contempt when plaintiff refused to back off his charges of the
25 judges perjury, deceit, willful misconduct and bad faith.

26 He gave dishonest testimony evasive answers and provided materially false information concerning many
27 issues raised in his challenges and from the bench in open court. Based on his deceitful conduct, one must
28 concluded that Judge Tigar's lack of candor and falsehoods create the appearance that he rules and
29 administer and probably fostered and procured his judicial office by deceit. At a minimum, Judge Tigar's
30 challenge-related nondisclosures and misrepresentations are of the same import and create a similar
31 appearance; they also require the same result. Particularly relevant here is the courts conviction that
32 'deception is antithetical to the role of a Judge who is sworn to uphold the law and seek the truth'

1 [citations].” (668 N.Y.S.2d at 999.) The deception practiced by Judge Tigar during these events, as well as
2 his specious actions before this Plaintiff on every occasion, are equally antithetical to, and inherently
3 incompatible with, his duties to uphold the law and the search for truth.

4 Honesty is a minimum qualification for every judge. (Kloepfer v. Commission on Judicial Performance
5 (1989) 49 Cal.3d 826, 865 (Kloepfer).) If the essential quality of veracity is lacking, other positive qualities
6 of the person cannot redeem or compensate for the missing fundamental. (Ibid.)

7 2. Willful Misconduct, or at a Minimum Prejudicial Misconduct

8 You must agree that Judge Tigar’s conduct and actions constitute willful misconduct, or at a minimum,
9 constitute prejudicial misconduct. One of the requirements for willful misconduct – that the misconduct
10 occur while the judge is acting in a judicial capacity – is clear in this case. He violated the Act, including by
11 knowingly signing false statements under penalty of perjury in his judicial capacity.

12 “A judge is acting in a judicial capacity while performing one of the functions, whether adjudicative or
13 administrative in nature, that are associated with the position of a judge or when the judge uses or attempts
14 to use the authority of the judicial office for an improper purpose.” (Broadman v. Commission on Judicial
15 Performance (1998) 18 Cal.4th at p. 1104, citing Dodds, supra, 12 Cal.4th at p. 172.)

16 Judge Tigar’s misconduct is willful misconduct within the meaning of the California Constitution. At best,
17 it is “unjudicial conduct committed in bad faith by a judge acting in a judicial capacity.” (Broadman, supra,
18 18 Cal.4th at pp. 1092-1093 and Doan, supra, 11 Cal.4th at p. 312.)

19 In this context, bad faith means a culpable mental state beyond mere negligence and consisting of either
20 knowing or not caring that the conduct being undertaken is unjudicial and prejudicial to public esteem. In
21 sum, to constitute prejudicial conduct, a judge’s actions must bring “the judicial office into disrepute,” that
22 is, the conduct would appear to an objective observer to be prejudicial to “public esteem for the judicial
23 office.” [Citation.] (Broadman, supra, 18 Cal.4th at p. 1093.)

24 In my previous explanation that Judge Tigar’s violations also violated the canons of judicial ethics (pp. 16-
25 17, ante), you must reach the conclusion that the judge has brought the judiciary into disrepute and that his
26 conduct is prejudicial to public esteem for the judiciary and that Judge Tigar’s irresponsible failure as a
27 judge to read, interpret, and apply the applicable laws “goes beyond mere negligence” within the meaning
28 of Broadman. Based on the quoted legal standards, Judge Tigar has committed prejudicial willful
29 misconduct or at least prejudicial misconduct when he violated the Act as described herein, including when
30 he swore to the accuracy of the affidavits he knew were false.

31 3. Prejudicial Misconduct

32 The herein conduct constitute prejudicial misconduct within the meaning of article VI, section 18(d) of the

1 California Constitution. The Supreme Court has defined this category of misconduct by a judge as arising
2 out of conduct which is not done in bad faith, “but which nevertheless would appear to an objective
3 observer to be not only unjudicial conduct but conduct prejudicial to the public esteem for the judicial
4 office....” (Broadman, supra, 18 Cal.4th at p. 1092, citing Doan, supra, 11 Cal.4th at p. 312.) This conduct
5 by Tigar fits within this definition and it is prejudicial to public esteem for the judicial office.

6 The court and the judge has to admit he did not disclose the truth and signed the statements under penalty
7 of perjury knowing each of them contained false information, and the concomitant false representation of
8 the judge are highly material because his misconduct subverts a core purpose of the law.

9 Tigar violated canon 1 by failing to maintain a high standard of conduct when he failed to read, interpret and
10 apply the law governing Plaintiff’s motions and then violated them. He also violated the provision of canon
11 2A requiring judges to promote public confidence in the judiciary. Public confidence in the judiciary is
12 seriously impacted when the public learns a judge, one who is entrusted to apply the rule of law, does not
13 read, interpret, apply and therefore does not abide by the law. The public can have no confidence in a judge,
14 and hence a judiciary, that is required to know and respect the law but does neither.

15 4. Violations of the Code of Judicial Ethics

16 Plaintiff charges Judge Tigar with violating canon 1, which requires a judge to uphold and preserve the
17 integrity of the judiciary and to do so by maintaining high standards of personal conduct. You must adopt
18 the following conclusions that Judge Tigar violated this canon as well as canon 2A, which requires a judge
19 to respect and comply with the law and to act at all times in a manner that promotes public confidence in the
20 integrity and impartiality of the judiciary:

21 By lying under oath; calling Plaintiff a liar without any substantiation or justification; entitling orders for
22 his convenience to deny them and avoid appellate review; entitling orders for his convenience to deny them
23 and issues sanctions; withholding orders to deny Plaintiff’s civil rights and right to due process; Tigar
24 failed to observe high standards of conduct. His conduct exhibited a complete lack of concern for the rights
25 of others, an inability to control his impulses and poor judgment, thereby seriously injuring the integrity of
26 the judiciary in the eyes of the public.

27 This same conduct reflects his lack of respect for and compliance with the law in violation of canon 2A.

28 5. Unfaithful Discharge of Judicial Duty

29 Accordingly, the court will find that Judge Tigar’s orders and conduct reflects a purpose other than the
30 faithful discharge of judicial duty, and was at minimum improper action within the meaning of article VI,
31 section 18, subd. (d)(3) of the California Constitution, and his false and misleading assertions were in
32 violation of the Code of Judicial Ethics, canons 1, 2, 2A and 2B; was willful misconduct in office, persistent

1 failure or inability to perform his duties in a fair and just manner, conduct prejudicial to the administration
2 of justice that brings the judicial office into disrepute, or improper action within the meaning of article VI,
3 section 18(d), of the California Constitution providing for removal, censure, or public or private
4 admonishment of a judge or former judge.

5 6. No Mitigation

6 Despite his many self touted achievements and rank in the legal community, it does not mitigate or excuse
7 Tigar’s willful or prejudicial misconduct. (Ibid.; accord, Kloepfer, supra, 49 Cal.3d at p. 865 [lack of
8 honesty cannot be mitigated or excused by other positive characteristics].)

9 It makes more unbelievable his claim that he somehow did not know what the ex-parte motions were about,
10 and has always failed to read and follow the law governing the issues before him. This continued failure as
11 an “appalling lack of common sense” and something a judge could never satisfactorily explain. You too
12 will also find his claimed ignorance to be feigned and that he was fully aware of the issues surrounding the
13 motions and the law governing them despite his rulings is more consistent with his false character, self
14 marketed image and self portrayed description of judge as a jurist who was thoroughly versed in the law.
15 Moreover, his self cultivated “good reputation for legal knowledge and administrative skills” and ardent
16 desire for an Appellant appointment “does not mitigate willful or prejudicial misconduct. (Kloepfer, supra,
17 49 Cal.3d at p. 865.)

18 7. Deception is Fraud

19 The judge’s deception is fraud and overwhelms other considerations and compels removal. Judge Tigar
20 engaged in deceit and misrepresentations to keep his position as judge in this case. He also has dissembled
21 before the court with excuses in an attempt to minimize fault, thereby demonstrating a lack of acceptance of,
22 and accountability for, his wrongdoing. He demonstrated extreme lack of judgment mentioning Plaintiff’s
23 disqualification of him and other judges, calling plaintiff a liar, knowing the impropriety of doing so, and
24 his conduct of threatening plaintiff with contempt for speaking the truth, and for not abstaining from
25 addressing his many transgressions during the hearing demonstrates an alarming disrespect for the
26 authority of justice in presiding over the case, the people of the County of Alameda, and other court
27 personnel. His actions show the serious degree to which he is unable to control his behavior. That inability
28 to exercise self-restraint, including the other charges herein, is convincing there is a strong likelihood he will
29 reoffend in the future. You cannot run that risk and still fulfill your constitutional mandate to protect the
30 public and the reputation of the judiciary.

31 8. Gross Lack of Judicial Temperament

32 The indication of any pattern of behavior similar to that contained in this Writ reflects a gross lack of

1 judicial temperament and is utterly irreconcilable with the minimum standards expected of a judge. The
2 Court will find “particularly egregious” the judge’s conduct at every hearing. The judge’s lying can not
3 be reconciled with canon 1 or canon 2A, or with the standard that honesty is a “minimum qualification”
4 expected of every judge.

5 In addition, the Court will find “reprehensible” Judge Tigar’s conduct in repeatedly invoking his judicial
6 office and favored standing as a panel member of various judicial and legal committees, commissions,
7 associations, and groups, including the Judicial Council panel that reviews challenges for cause of judges
8 for disqualification, in an effort to attest to the fact that he otherwise receives preferential treatment. His
9 attitude is clearly that he is above the law and will not be overruled on appeal nor censured by the Council
10 or Commission that he dutifully serves. “Ours is a government of laws.” *See Am. Civil Liberties Union v.*
11 *Dep’t of Def.* (“*ACLU I*”), 339 F. Supp. 2d 501, 502 (S.D.N.Y. 2004). “No one is above the law: not the
12 executive, not the Congress, and not the judiciary.” *Id.* The Court and Tigar must recognize that all of
13 Judge Tigar’s wrongdoing arose out of many lapses of judgment, not one, but note that this lapses are no
14 more excusable than a similar mistake made by any other judge.

15 Tigar’s veracity and integrity has been seriously impugned, and his attempts to impart the fact that he
16 obtains preferential treatment are unsuccessful. The Court must note that there was on-bench misconduct,
17 and a direct adverse effect on the administration of justice per se.

18 9. Atmosphere of Unfairness

19 It must be stipulated that Judge Tigar’s conduct violated canons 1, 2A, and 2B(2), and constituted
20 prejudicial misconduct. Judge Tigar treated Plaintiff in a rude and demeaning manner, in violation of canons
21 1, 2A, and 3B(4). He berated, scolded, threatened, and belittled plaintiff even called him a liar. These
22 improper references of Plaintiff’s character and as being untruthful, coupled with his perjury regarding the
23 discovery matters and categorical denial of every discovery issue raised before him reflected a prejudgment
24 of plaintiff’s discovery claims and a lack of impartiality, contrary to canon 3B(5). Judge Tigar’s abusive
25 conduct must draw harsh criticism from the Court in this decisions arising out of these charges of the
26 “atmosphere of unfairness” created by the judge’s denial of plaintiff’s civil rights, right of due process,
27 biased administration of justice, erroneous rulings, lies, deception, threats, retaliation, and caustic,
28 condescending remarks of the plaintiff. (*People v. Urias* (July 31, 2006, G035179 [2006 WL 2128631]
29 [nonpub. opn.]).

30 He must be reminded of the consequences of making inappropriate remarks, and of a judge’s duty to be
31 patient, dignified and courteous to those with whom the judge deals in an official capacity.

32

1 **10. High Probability” He Would Continue Unethical Behavior**

2 The Court will find that the uncontroverted facts in the current matter showed a persistent pattern of
3 unjudicial, abusive and demeaning conduct that is seriously at odds with the canons and expected judicial
4 temperament, and that neither good conscience nor repeated cautions on behalf of plaintiff had caused the
5 judge to reform his intemperate judicial demeanor. The adverse impact of the judge’s misconduct on the
6 judicial system had been substantial, jeopardizing the parties’ right to a fair trial and, in this case,
7 contributing to the reversal of a civil trial judgment. Based on Judge Tigar’s “persistent mistreatment” of
8 plaintiff appearing before him and his inability to control his behavior despite the requirements of fairness
9 and justice, the Court of Appeal must determined that there is a “high probability” he would continue his
10 unethical behavior if he were to sit in a judicial capacity in the future. The Court therefore must concluded
11 that he is unfit to serve in this matter and recusal is necessary for the protection of the public and the
12 reputation of the judiciary. The court must also consider and issues a referral to the Commission for his
13 review for a public censure and possible bar.

14 **21. Misconduct in Misstating the Evidence**

15 Plaintiff contends Tigar committed misconduct on several occasions by wrongfully entitling, misstating and
16 mischaracterizing the evidence of the orders and motions. Although judges have wide latitude to draw
17 inferences from the evidence presented at trial, mischaracterizing the evidence is misconduct. (People v.
18 Avena (1996) 13 Cal. 4th 394, 420 [53 Cal. Rptr. 2d 301, 916 P.2d 1000]; see also People v. Lucas (1995)
19 12 Cal. 4th 415, 472 [48 Cal. Rptr. 2d 525, 907 P.2d 373] [failure to object forfeited claim of misconduct
20 for misstating facts].) A prosecutor's "vigorous" presentation of facts favorable to his or her side "does not
21 excuse either deliberate or mistaken misstatements of fact." (People v. Purvis (1963) 60 Cal. 2d 323, 343
22 [33 Cal. Rptr. 104, 384 P.2d 424].) (1c) Although the line between permissible and impermissible conduct
23 may sometimes appear unclear, Tigar, as we explain, crossed this line many times.

24 As is clear, Tigar again blatantly, grossly and categorically mischaracterized the factual record to bolster a
25 critical weakness in his strategy and to gloss over inconsistencies in the evidence of wrongfully entitling
26 orders and motions unfavorable to his desired result to deny and sanction Plaintiff and avoid appellate
27 review. His actions added to the growing mountain of deceit and unethical behavior thus constituted
28 misconduct.

29 **22. Judicial Misconduct In Limine Motions**

30 Clearly, the defendants and defendant judge Tigar's questionable granting of limine motions in support of
31 defense theory concerning the alleged 1991 backup, the inclusion of the recession of the insurance contract,
32

1 the determination of the “sick home” effect and the complete exclusion of all materials and references to
2 the vacated Insurance Appraisal “as if it never happened” was to be lethal to Plaintiff's case and assumed
3 facts not in evidence -- the existence of such evidence procured through the appraisal that can no longer be
4 used -- thereby establishing a paradoxical and unwarranted but nevertheless prejudicial nexus of the facts in
5 the collective mind of the defense, Tigar and jury between the defendant's defense theories for recession, the
6 cross complaint, the recession letter and the exclusion of all matters investigated, discovered, alleged, and
7 plead during and as a result of the insurance appraisal. The asking of that question, then, does eliminate all
8 possible defense theories while it legally confirms the existence of the insurance contract without the
9 possibility of raising the issue of recession, and voids any issue of the 1991 backup as ALL the evidence,
10 testimony and information was procured during and as a result of the insurance appraisal. Any attempt by
11 defendants or defendant judge Tigar to circumvent this limine motion is certainly prejudicial misconduct.
12 (See, e.g., People v. Blackington (1985) 167 Cal.App.3d 1216 [213 Cal.Rptr. 800].)

13 **23. Objections**

14 There is a well-recognized exception to this general rule as there is no need for an objection and request for
15 admonition in order to preserve a charge of misconduct for appellate review in those instances where the
16 misconduct is of such an egregious nature that no amount of intervention by the court would serve to
17 insulate the jury from the prejudicial impact of the misconduct. (People v. West (1932) 215 Cal. 87, 96 [8
18 P.2d 463].) Any review of the record as a whole in this case would convince anyone that this exception
19 certainly does apply here.

20 Plaintiff will move for a mistrial if Tigar attempts to circumvent the current insurance appraisal ruling
21 granted as a pretrial motion in limine, assigning misconduct on the ground that Tigar's ruling had
22 improperly and prejudicially assumed facts not in evidence and once it was discovered it totally denied
23 nearly every defense matter on which the defendants and defendant judge had bet ALL their chips, the
24 defendants and Tigar had to rescind the effect of the order and modify it's impact on the trial. The court
25 must grant the motion for a mistrial with respect to imputing any evidentiary value to the granted motion in
26 question.

27 **24. The Issue Is Preserved for Appellate Review**

28 At the threshold, the court and Tigar can not contend Plaintiff forfeited appellate review of his claims of
29 misconduct, because as to each claim Plaintiff interject a timely and specific objection. As a general rule a
30 party may not complain on appeal of misconduct unless in a timely fashion--and on the same ground--the
31 party made an assignment of misconduct and requested that the court acknowledge the impropriety. (

32

1 People v. Berryman (1993) 6 Cal. 4th 1048, 1072 [25 Cal. Rptr. 2d 867, 864 P.2d 40].)" (Samayoa, supra,
2 15 Cal. 4th at p. 841.)

3 The foregoing, however, is only the general rule. A party will be excused from the necessity of either a
4 timely objection and/or a request for admonition if either would be futile. (People v. Arias (1996) 13 Cal.
5 4th 92, 159 [51 Cal. Rptr. 2d 770, 913 P.2d 980]; People v. Noguera (1992) 4 Cal. 4th 599, 638 [15 Cal.
6 Rptr. 2d 400, 842 P.2d 1160].) In addition, failure to request the admonishment or acknowledgment does
7 not forfeit the issue for appeal if " 'an admonition would not have cured the harm caused by the
8 misconduct.' " (People v. Bradford (1997) 15 Cal. 4th 1229, 1333 [65 Cal. Rptr. 2d 145, 939 P.2d 259],
9 quoting People v. Price (1991) 1 Cal. 4th 324, 447 [3 Cal. Rptr. 2d 106, 821 P.2d 610] (hereafter Price).)
10 Finally, the absence of a request for a curative admonition does not forfeit the issue for appeal if "the court
11 immediately overrules an objection to alleged prosecutorial misconduct [and as a consequence] the
12 defendant has no opportunity to make such a request." (People v. Green (1980) 27 Cal. 3d 1, 35, fn. 19
13 [164 Cal. Rptr. 1, 609 P.2d 468] (hereafter Green); People v. Pitts (1990) 223 Cal. App. 3d 606, 692 [273
14 Cal. Rptr. 757]; People v. Lindsey (1988) 205 Cal. App. 3d 112, 116, fn. 1 [252 Cal. Rptr. 96]; see also
15 People v. Noguera, supra, at p. 638 [must request curative admonition "if practicable"].)

16 Although Plaintiff has objected to some of the instances of misconduct, he did not do so in all cases and
17 some times did not state the grounds of his objection or declined to request Tigar to admonish himself.
18 Nevertheless, Plaintiff was subjected to a constant barrage of Tigar's unethical conduct including threatened
19 charges of contempt, lying under oath, propounding outright falsehoods, wrongfully entitling motions and
20 orders, misstating the evidence, deception, bias, sarcastic and critical comments demeaning Plaintiff, and
21 prejudice. With a few exceptions, all of Tigar's misconduct occurred in hearings. His continual misconduct,
22 coupled with his failure to rein in his excesses, created a hearing and trial atmosphere so poisonous that
23 Plaintiff is thrust upon the horns of a dilemma. On the one hand, he must and will continually speak and
24 demand the truth and to object to Tigar's misconduct and risk repeatedly provoking Tigar's wrath, which has
25 already taken the form of comments before the court making false allegations against plaintiff; calling
26 plaintiff a liar without providing a shred of proof; labeling plaintiff as someone whom "attacks judges" in
27 open court; the threatened incarceration of plaintiff with contempt for speaking the truth while recently
28 suggesting Plaintiff was an obstructionist, delaying a hearing with objections. These comments and such
29 conduct from the bench run the obvious risk of prejudicing the court and anyone within ear shot of the
30 hearings towards Plaintiff. On the other hand, Plaintiff could decline to object, thereby forcing Plaintiff to
31 suffer the prejudice caused by Tigar's constant misconduct and threats of charges of contempt if he does.
32

1 Plaintiff will NEVER decline to object and will ALWAYS DEMAND that Tigar be honest and truthful at
2 all times in this case! Under these unusual circumstances, you must conclude Plaintiff must be excused
3 from the legal obligation to continually object, state the grounds of his objection, and ask the court and jury
4 be acknowledged of the wrong doing or be admonished. On this record, you must be convinced any
5 additional attempts on Plaintiff's part to do so would have been futile and counterproductive. (See People v.
6 Arias, supra, 13 Cal. 4th at p. 159; People v. Noguera, supra, 4 Cal. 4th at p. 638.)

7 **25. Tigar's Pretext For a Charge of Contempt Against Plaintiff**

8 It is without doubt that Tigar's structuring of the record was pretextual to his forming the basis for a
9 charge of contempt against Plaintiff. He knows he needs the record to reflect that he has given the
10 admonition to plaintiff as the record is all that will be reviewed, not the actual challenges that contain the
11 allegations and embody the facts to establish Tigar has repeatedly lied under oath, is dishonest, deceiving,
12 unbiased, nor therefore competent. What Tigar must address is that the charge of contempt must be based
13 on the admonition of being his being dishonest as an untruth. Therein lies his problem as Plaintiff has and
14 will uncategorically state on the record the lies he has uttered under oath as his own words and writings will
15 bear witness against him. Tigar can not silence the truth with a threat of jail for contempt. If he has lied and
16 it is clearly established that he has, he can not hide behind some perceived judicial litigation privilege to
17 avoid it and incarcerate plaintiff for arguing that fact! He again can not simply order a lie to be the truth, or
18 hide behind the veil provided to him by a colleague to do so! That challenge will be met and that
19 confrontation inevitable as Tigar has made himself a defendant of his actions in this trial that now has a
20 fourth element that will be brought to the attention of the jury at every turn.

21 **26. The Immaculate Deception**

22 **"The individual is handicapped by coming face to face with a conspiracy so monstrous he cannot**
23 **believe it exists".**

24 **J. Edgar Hoover, former head of the FBI**

25 Plaintiff exposed the "staged recusal" as part of a more grandiose plan to use judge Tigar in a "stand-alone,
26 " "off-the-shelf, " covert capacity that would act throughout the proceeding while evading judicial review
27 with the protection of others higher up in the judiciary.

28 Plaintiff's accusations are correct that Tigar had distorted the facts, evidence and the public's intelligence to
29 rationalize his actions and the decisions.

30 What has emerged is a defendant judge fixated on finding ways to shackle Plaintiff's case and avoiding the
31 charges that he's playing a key role in suppressing contrary evidence and testimony that would demand
32 his recusal while advocating for his defendants.

1 "The details suggest Tigar is a deputy defense counsel and a defendant in a shadow operation as the judge.
2 He had his own source of evidence, facts, and advice that lead to his legal "findings and orders". He had
3 his own source of access to and is making his own decisions for the defendants.
4 Plaintiff writes that Tigar had written he had not discovered any evidence that Plaintiff was diligent in his
5 efforts also asserted that the court willfully ignored his pleadings and findings.
6 Plaintiff mentioned the unsubstantiated claim of non-diligence by Tigar and he disavowed the assertion
7 even after Plaintiff's criticism.
8 The disclosure of the Challenges by Plaintiff can lead to a federal investigation into why Tigar or Superior
9 Court administration officials deliberately included this information in his sworn affidavit to prejudice the
10 reviewer of this challenge with inadmissible evidence. The challenge for cause is classified and it is a crime
11 to knowingly disclose classified information to anyone. Tigar is charged with lying under oath or perjury,
12 misconduct, deception, conduct prejudicial, prejudice, bias, and obstructing justice.
13 Plaintiff suggests that the defendants motion to vacate Tigar's order disqualifying himself under CCP
14 170.6 was all staged and hinted at by Tigar in his opening statement to the parties when he first called the
15 case on April 27, 2007. This choreographed act was done at Tigar and the court's behest and that Tigar had
16 surely had his conclusions about the result well before the hearing because there are more reasons now to
17 disqualify Tigar than ever before.
18 Plaintiff feels that Tigar's mission was suggested by the defendants or members of the court but authorized
19 by others in response to inquiries made about the course of action and direction of this case with the
20 exposure and liability they are all sure to have.
21 Tigar should not be surprised to find Plaintiff was not backing off the words that Tigar is a liar and
22 dishonest that he had been defending. Plaintiff is sure it wasn't the first time Tigar spoke of his position in
23 the Judicial and legal community, especially the Judicial Council, with great certainty, only to find that the
24 truth had changed it and nobody had bothered to let him know.
25 Plaintiff also described steps that Tigar took to use parts of a judicial challenge for cause, a classified
26 document, as part of his negative assessment of Plaintiff's strategic capabilities, to rebut Plaintiff. Among
27 those not informed about this lying Tigar's maneuver, were the reviewer of the Challenge for Cause and the
28 public.
29 What is interesting is what appears to be the total involvement of Tigar and his legal research attorney
30 named Adrienne or Angela and the court staff as if they are down to micromanaging every response, motion
31 and order at that level, that is quite astounding.
32 While these judges and defendants holds Plaintiff, his family, clients, business and community under a ten

1 year legal occupation with their having also seized occupation of the legal system and their *manipulating*
2 control over it.

3 There can be no reasonable explanation for the latest insane actions of Tigar whose continued perjury,
4 corrupt misconduct, bias, prejudicial misconduct, deception, and undefined relationship with parties is only
5 matched by his record for denying plaintiff his basic rights to due process and justice. If evidence is needed
6 then look no further than the latest rulings in this case, Plaintiff's challenges and Tigar's affidavit and
7 orders striking challenges without bias or prejudice of a colleagues review.

8 As Plaintiff has documented the transgressions of Tigar, his colleagues and the defendants and expresses
9 the corruption and solidarity of these people, he has become perceived as is the problem; it is this attitude
10 which has induced Tigar, his colleagues and the defendants to preface any reference to Plaintiff with the
11 bane of "he attacks judges" and consequently being one to issue an order to eliminate "the problem".
12 Plaintiff having this label as one who attacks judges and regarded as a problem by the Judicial
13 Administration and the various hugely powerful attorneys lobby is therefore, in the simplistic, black and
14 white world of the legal community, a legal leper to be despised and isolated and anyone who shows
15 solidarity with Plaintiff must be a traitor as this black comedy is being played out in court of public opinion
16 as well which will see some of the finest judicial and legal elite in the dock.

17 Facing trumped up charges by the defendants and their judicial supporters and a judicial system so warped
18 and twisted by Tigar, his colleagues and allies in the Superior and Appellate Courts, Plaintiff assures scores
19 of people will be interested in the legal brawl in the courtroom with journalist to witness the unfolding farce
20 before leading civil rights campaigners... while the court may be in the daft belief if no one could see the
21 injustice they might go away quietly. Plaintiff assures that none will denied full and complete access to the
22 unfiltered information from the proceedings and many have expressed that interest.

23 Tigar is a desperate man, with the "judicial and named defendants" clinging on to the last vestiges of
24 power in a white knuckle drama the public has seen played out so many times recently across the globe by
25 corporate-controlled authorities who have oppressed their own people without mercy.

26 This latest disgraceful chapter in the ruling life of Tigar and the judicial and named defendants will be
27 exposed when the judges and other parties in this matter are ruled that all charges brought by the
28 defendants against Plaintiff were groundless; the product of fraud upon the court and law; corruption and
29 conflict of interest; subornation and solicitation of perjurious testimony; spoliation of evidence; unclean
30 hands; conduct prejudicial; bias and prejudice; and was racially, religiously and politically motivated.

31 Plaintiff and the people are not taken in by this disinformation. The fact is the court must concede that
32 Tigar, his colleagues and the defendants are some "slick operators" who feel they can fool anyone with their

1 legal machinations and have cover from their cronies in the Superior and Appellate Courts whom they are
2 closely allied with. This top of the line judges and attorney's whom are posed as "leaders" have constructed
3 and fabricated the system to manipulate it to their ends, under the pretense that it represents justice is used
4 to misdirect the people.

5 The defendants and their judicial supports are "a force that's defeated, a force that is frustrated." They have
6 attempted to subject plaintiff and his family to condition that are "killing them." Plaintiff, his family, clients,
7 business and community are firm in their resolve to prevail over all these "judicial and named defendants".
8 Tigar and the defendants have routinely lied under oath, and fabricated evidence and stories about plaintiff
9 in their effort to effect their spin of events to "brainwash" some that they are fighting "evil" in the form of
10 plaintiff as the wicked stories are without substance and less believable. They have long claimed that they
11 would break the back of plaintiff and family as these "leaders" continue their attempt at fooling the
12 American people with their brand of "justice".

13 Even more interesting, the defendants supported by "judicial defendants" have come up with the nefarious
14 claim that plaintiff has committed fraud in the application and attempts to use this as a "legal defense
15 shield." The "judicial and named defendants" proffer the idea that plaintiff, his family, business and
16 community are not human, have no families, and as such are immune to their torment and torture as they
17 have occupied their lives for ten years.

18 **27. Tigar's Impartiality Beyond Recovery**

19 As has been clearly demonstrated in this Statement of Disqualification, plaintiff is certain that this
20 judge has exhibited this misconduct herein that is so drastic and serious so as to impair the judge's
21 impartiality beyond recovery, that it is not possible that a fair trial can be held before him, and he must be
22 disqualified.

23 The standards of conduct to which judges are held are reflected in part in the canons of the Code of
24 Judicial Conduct. Although these canons do not have the force of law or regulation, "they reflect a judicial
25 consensus regarding appropriate behavior" for California judges. (*Kloepfer v. Commission on Judicial*
26 *Performance* (1989) 49 Cal. 3d 826, 838, fn. 6 [264 Cal. Rptr. 100, 782 P.2d 239, 89 A.L.R.4th 235]; see
27 *Cannon v. Commission on Judicial Qualifications* (1975) 14 Cal. 3d 678, 707, fn. 22 [122 Cal. Rptr. 778,
28 537 P.2d 898].) The failure of a judge to comply with the canons "suggests performance below the
29 minimum level necessary to maintain public confidence in the administration of justice." (*Kloepfer v.*
30 *Commission on Judicial Performance*, supra, 49 Cal. 3d at p. 838, fn. 6.)

31 An impartial and independent judiciary is indispensable to our legal system. Of equal importance is
32

1 public confidence in the independence and integrity of the judiciary, because the effective functioning of our
2 legal system is dependent upon the public's willingness to accept the judgments and rulings of the courts.
3 (Cal. Code Jud. Conduct, com. to canon 1.) Plaintiff argues that the court can not allow this type of willful
4 misconduct in office and conduct prejudicial to the administration of justice (moral turpitude, corruption,
5 and dishonesty) that brings the judicial office into disrepute. (Art. VI, § 18, subd. (c).)

6 By his actions, Judge Tigar has violated the Canons of the Code of Judicial Conduct, which requires that
7 judges conduct themselves "at all times in a manner that promotes public confidence in the integrity and
8 impartiality of the judiciary." The judge's actions, brash comments and statements were manifested in bad
9 faith while they was acting in their judicial capacity. (*Spruance v. Commission on Judicial Qualifications*
10 (1975) 13 Cal. 3d at p. 796.) Their actions therefore constitute willful misconduct.

11 If "a judge who should disqualify himself or herself refuses or fails to do so," the party seeking the
12 disqualification must file a verified, written statement with the clerk of the court objecting to the hearing or
13 trial before the judge and "setting forth the facts constituting the grounds for disqualification." (§ 170.3,
14 subd. (c)(1).) The judge can either consent to the disqualification or file a verified answer admitting or
15 denying the allegations in the challenger's statement and adding any additional facts material "to the
16 question of disqualification." (§ 170.3, subd. (c)(3).) Unless there is a recusal by the challenged judge, the
17 question of disqualification must be heard and "determined" by another judge agreed to by the parties. (§
18 170.3, subd. (c)(5).) That determination may be based on the challenger's statement and the answer filed by
19 the challenged judge, or by evidence presented at a hearing. (§ 170.3, subd. (c)(6).) Thus, when a judge's
20 disqualification is contested, the challenging party must establish the facts supporting its claim of bias or
21 prejudice to the satisfaction of a neutral judge, who is to determine whether there is "cause" for
22 disqualification.

23 If a judge refuses to recuse himself or herself, "the question of disqualification shall be heard and
24 determined by another judge agreed upon by all the parties who have appeared or, in the event they are
25 unable to agree within five days of notification of the judge's answer, by a judge selected by the chairperson
26 of the Judicial Council" (§ 170.3, subd. (c)(5).) "The judge deciding the question of disqualification
27 may decide the question on the basis of the statement of disqualification and answer and such written
28 arguments as the judge requests, or the judge may set the matter for hearing as promptly as practicable. If a
29 hearing is ordered, the judge shall permit the parties and the judge alleged to be disqualified to argue the
30 question of disqualification and shall for good cause shown hear evidence on any disputed issue of fact." (§
31 170.3, subd. (c)(6).) The judge's answer did not address those issues raised in the challenge and fails to
32 admit or deny Plaintiff's allegations as required by § 170.3, subd. (c)(3). Plaintiff request that Judge Tigar

1 recuse himself in the interest of justice as per Code of Civil Procedure §170.1(a)(6)(A), and (B) in violation
2 of the law and/or must be disqualified.

3 **28. The Aggregate Prejudicial Effect**

4 The court's threatened chastising of Plaintiff is bias to Plaintiff and the jury. Moreover, due respect for
5 Plaintiff's rights would suggest the court make clear to the jury that the jury should rely on the evidence
6 presented and not be swayed by the arguments of the court or counsel. By failing to take control of the
7 courtroom, "the trial judge instigated and allowed the trial to be conducted at an emotional pitch which is
8 destructive to a fair trial." (People v. Bain (1971) 5 Cal. 3d 839, 849 [97 Cal. Rptr. 684, 489 P.2d 564].)

9 The individual instances of misconduct was itself prejudicial, for each contributed to the general
10 acrimonious atmosphere that threatened Plaintiff's right to a fair hearing and trial. I reiterate, however, that
11 such "offensive personality" as Tigar's is not appropriate from a representative of the state's interests. (People v. Kelley, supra, 75 Cal. App. 3d at p. 690.)

13 Plaintiff's hearings, as seen, was far from perfect. In the circumstances of this case, the sheer number of
14 instances of prejudicial misconduct and other legal errors raises the strong possibility the aggregate
15 prejudicial effect of such errors was greater than the sum of the prejudice of each error standing alone. (Cf.
16 People v. Roberts (1992) 2 Cal. 4th 271, 326 [6 Cal. Rptr. 2d 276, 826 P.2d 274] [concluding "the whole"
17 of the trial errors "did not outweigh the sum of their parts"].)

18 Plaintiff claims the cumulative prejudice of Tigars actions requires reversal of this decision. If you have
19 considered each claim on the merits, they both singly and cumulatively establish prejudice requiring
20 disqualification and the reversal of the decisions. You must believe that these transgression, their
21 seriousness and number, and relatively egregious and overwhelming, created such a cumulatively prejudicial
22 impact that it was a gross abuse of discretion to have found otherwise in considering the matters
23 complained about before this court. You can not escape the fact Plaintiff was forced to suffer constant and
24 outrageous misconduct by Tigar. A judge or prosecutor commits misconduct under state law if he or she
25 uses "deceptive or reprehensible methods" in an attempt to persuade the jury. (Samayoa, supra, 15 Cal. 4th
26 at p. 841; People v. Espinoza, supra, 3 Cal. 4th at p. 820; People v. Strickland (1974) 11 Cal. 3d 946, 955
27 [114 Cal. Rptr. 632, 523 P.2d 672].) Tigar's actions and methods were, at times perjurious, deceptive,
28 reprehensible, unethical, childish, unprofessional, outrageous and betrayed his trust as a judge.

29 You cannot ignore the overall prejudice to Plaintiff's case and his rights to a fair trial caused by Tigar's
30 pervasive campaign to deny and destroy Plaintiff's litigation theory and evidence on key legal points, as
31 well as his unceasing denigration and threats of contempt to Plaintiff. It is true that, some of Tigar's acts of
32

1 misconduct, Plaintiff objected but Tigar ignored the objections, thereby establishing the prejudice flowing
2 from those particular instances of misconduct. Given, however, the onslaught of the misconduct that
3 occurred in this case, it became increasingly impossible for Tigar or Plaintiff to remain impartial. "IT HAS
4 BEEN TRULY SAID: 'You can't unring a bell.' " (People v. Wein (1958) 50 Cal. 2d 383, 423 [326 P.2d
5 457] (dis. opn. of Carter, J.)) Here, the jury heard not just a bell, but a constant clang of erroneous law and
6 fact.

7 The sheer number of the instances of misconduct, together with the other material errors, is profoundly
8 troubling. Considered together, you must conclude they created a negative synergistic effect, rendering the
9 degree of overall unfairness to Plaintiff more than that flowing from the sum of the individual prejudice and
10 errors. Considering the cumulative impact of Tigar's misconduct together with the errors you will conclude
11 Plaintiff was deprived of that which the state was constitutionally required to provide and he was entitled to
12 receive: a fair hearing and trial. Plaintiff is thus entitled to the disqualification of Tigar, a reversal of the
13 rulings and orders, and a trial free of these defects.

14 **29. Judicial Immunity Inapplicable**

15 Plaintiff argues that Tigar's conduct was so serious that absolute judicial immunity principles are therefore
16 inapplicable to the events that occurred and he is exposed to liability for a suit for damages as he engaged in
17 the misconduct while involved in the exercise of a judicial function. (Falls v. Superior Court (1996) 42 Cal.
18 App. 4th 1031, 1036 [49 Cal. Rptr. 2d 908]; Tagliavia v. County of Los Angeles, supra, 112 Cal. App. 3d at
19 p. 761.) Moreover, not only was the basis for the initial challenge for conduct that occurred while Tigar was
20 in the courtroom but not sitting on the bench, there have been previous cases that involve allegations of
21 extremely serious judicial misconduct involving lying under oath; perjury; deception; making false
22 allegations against plaintiff; calling plaintiff a liar without providing a shred of proof; labeling plaintiff as
23 someone whom "attacks judges" in open court; has been guilty of illegal ex-parte communications;
24 malicious misuse of the power to issue subpoenas; the threatened incarceration of plaintiff with contempt
25 for speaking the truth; and conspiracies among judicial officers to deny a plaintiff the right to litigate.

26 **United States v. Stanley (1987) 483 U.S. 669, 680 [107 S. Ct. 3054, 3062, 97 L. Ed. 2d 550] [". . .**

27 **no holding can be broader than the facts before the court"]**

28 **Title 18 United States Code section 242** provides: "Whoever, under color of any law, statute, ordinance,
29 regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or
30 District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution
31 or laws of the United States, or to different punishments, pains, or penalties, on account of such person
32 being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be

1 fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the
2 acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of
3 a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten
4 years, or both; and if death results from the acts committed in violation of this section or if such acts include
5 kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual
6 abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or
7 both, or may be sentenced to death."

8 Plaintiff argues that immunity from an action for damages is unavailable because defendant was not acting
9 in a judicial capacity when speaking in the courtroom. The most recent California case to synthesize federal
10 authority in terms of the scope of the absolute judicial immunity from a suit for damages was authored by
11 Associate Justice Walter Croskey, in Howard v. Drapkin, supra, 222 Cal. App. 3d at page 851, footnote 3
12 where he wrote: "Immunity exists for "judicial" actions; those relating to a function normally performed
13 by a judge and where the parties understood they were dealing with the judge in his official capacity.
14 [Citations.]' (Olney v. Sacramento County Bar Assn. (1989) 212 Cal. App. 3d 807, 811) Thus, the
15 line is drawn 'between truly judicial acts, for which immunity is appropriate, and acts that simply happen to
16 have been done by judges. Here, as in other contexts, immunity is justified and defined by the functions it
17 protects and serves, not by the person to whom it attaches.' (Forrester v. White (1988) 484 U.S. 219, 227 .
18 . . .) Acts and decisions which are not judicial or adjudicative, i.e., acts and decisions performed and made by
19 a judge which are administrative or legislative, 'even though they may be essential to the very functioning of
20 the courts, have not . . . been regarded as judicial acts.' (Id. at p. 228)" In Taliaferro v. County of
21 Contra Costa, supra, 182 Cal. App. 2d at pages 592-593, the Court of Appeal described the scope of the
22 absolute judicial immunity from a damage suit as follows: "As Justice White pointed out in Frazier v.
23 Moffatt [(1951)] 108 Cal. App. 2d 379, . . . 386 . . . : ' . . . the test of immunity from a civil suit for damages
24 on the part of a judicial officer is not whether he committed an error of judgment in acting as he did, but the
25 question of judicial immunity must be determined on the basis of whether the act in question was within the
26 general scope of the officer's judicial powers and whether he acted in an honest belief that he was legally
27 warranted in doing it.' "

28 '[Absolute immunity] does not apply to or include any publication of defamatory matter before the
29 commencement, or after the termination of the judicial proceeding (unless such publication is an act
30 incidental to the proper initiation thereof, or giving legal effect thereto); nor does it apply to or include any
31 publication of defamatory matter to any person other than those to who, or in any place other than that in
32

1 which, such publication is required or authorized by law to be made for the proper conduct of the judicial
2 proceedings.' Buckley, 509 U.S. at 277 n. 8 . . . (citing Veeder, Absolute Immunity in Defamation: Judicial
3 Proceedings, 9 Colum.L.Rev. 463, 489 (1909)(footnotes omitted)). See also, New Alaska Development
4 Corporation v. Guetschow, 869 F.2d 1298 (9th Cir.1989) (holding that while a receiver appointed by the
5 court to manage an estate was entitled to judicial immunity from suit claiming mismanagement, receiver was
6 not absolutely immune from allegations that he stole assets or slandered the plaintiff). [P] In Harris v.
7 Harvey, the Fifth Circuit ruled that a judge was not immune from liability stemming from allegedly
8 slanderous statements made to the news media accusing the plaintiff of criminal conduct. 605 F.2d 330 (6th
9 Cir. 1979).

10 **30. In OPPOSITION to the selection of the Honorable Judge Jon Tigar, I now state and allege that:**

11 **A. Judge Tigar's Verified Answer Does Not Address The Allegations Contained In Plaintiff's Statement**
12 **Avoiding Facts Material or Relevant To The Disqualification**

13 Because Tigar was aware of al-Hakim's challenge, he was required to address the charges contained in the
14 challenge in order to prove that al-Hakim's allegations was false, otherwise Tigar is guilty of contempt and
15 evasion. Tigar had no such responses in his answer. A charge of judicial misconduct herein the answer by
16 the judge is unsupported by facts, constitutes contempt and is a groundless attack upon the integrity al-
17 Hakim, a slap in the face of all judicial officers, and is on its face contemptuous. (See Lamberson v.
18 Superior Court, supra, 151 Cal. at pp. 463-464.) Tigar is required to do more than simply ignore the
19 charges of judicial misconduct, coupled with the fact he does not answer the questions posed in the
20 challenge, his response is unsupported by fact and is false, and falls within contempt and demonstrates an
21 attitude of bias toward Plaintiff.

22 It is clear that Tigar's answer and allegation toward al-Hakim are false, it can be held that an order of
23 contempt is sufficient with respect to his answer and allegation since the answer does not set forth facts
24 necessary to uphold the answer and is contemptuous, but rather the answer incorporates statements that
25 require further answers in contempt for al-Hakim's right to due process.

26 Tigar's answer should have been stricken as facially inadequate. Tigar fails to admit or deny Plaintiff's
27 allegations as required by § 170.3, subd. (c)(3). Plaintiff request that Judge Tigar recuse himself in the
28 interest of justice as per Code of Civil Procedure §170.1(a)(6)(A), and (B) in violation of the law and/or
29 must be disqualified.

30 **B. Judge Tigar Is Tainted With Inadmissible Evidence From His Challenge and Is Disqualified**

31 California law requires that a judge be honest, unbiased and competent. Plaintiff has presented evidence that
32

1 Tigar is not honest, unbiased, nor therefore competent and does not meet any of these requirements.
2 Additionally, he is tainted, lacks disinterestedness, is biased and prejudiced as Plaintiff has informed Judge
3 Tigar of the many transgressions of the respective judges in this case, the defendants, and defense counsels
4 in his Statement of Disqualification and as a matter of law can Tigar not be impartial due to this Challenge,
5 his dismally evasive Answer and non response to Plaintiff's Reply in this matter.
6 Plaintiff's direct charges to Judge Tigar exposed, corrupted and impregnated him by the interjecting and
7 introduction of illegal, inadmissible, irrelevant and prejudicial evidence at the April 30, 2007 hearing, the
8 Challenge, the Reply and since his order on the peremptory challenge that will improperly influence Tigar
9 and he can not expect to be unblemished, to serve as a disinterested third party, fair, impartial and without
10 bias after this exposure. Again, defendants, knowing that Tigar will retaliate against Plaintiff, want to retain
11 Tigar in their continuing effort to curry the courts favor, to seek and establish an illegal, unfair advantage,
12 thus further establishing this need for Tigar to recuse from this trial.
13 It is beyond dispute that Tigar has personal knowledge of evidentiary facts crucial to this case and must be
14 disqualified. (Code of Civil Procedure Section 170.1(a)(1) [mandatory disqualification of judge who has
15 personal knowledge of evidentiary facts]; *Catchpole v. Brannon* (1995) 36 Cal.App.4th 237, 249-253
16 [advocacy for a party is judicial misconduct]
17 These conflicts are a direct pecuniary interest and clear evidence which casts considerable doubt on Tigar's
18 ability to act impartially and that he can never be allowed to be considered as the judge now. Plaintiffs'
19 uncontradicted evidence on this point is more than ample to satisfy the "impression of possible bias" test. (
20 *Betz v. Pankow* (1993) 16 Cal. App. 4th 919, 924 [20 Cal. Rptr. 2d 834] and decisions cited.)
21 Knowing this makes it very difficult for any objective person to contemplate how Judge Tigar can serve in
22 this matter and smacks of collusion and corruption! As a matter of law, if Tigar does not recuse himself,
23 Plaintiff is therefore entitled to an order disqualifying Tigar from acting as the judge in this matter rather
24 than proceeding to trial in a matter that would surely be appealed and be vacated. Tigar fails to admit or
25 deny Plaintiff's allegations as required by § 170.3, subd. (c)(3). Plaintiff request that Judge Tigar recuse
26 himself in the interest of justice as per Code of Civil Procedure §170.1(a)(6)(A), and (B) in violation of the
27 law and/or must be disqualified.
28 C. Judge Tigar Must Recuse Himself In The Interest Of Justice or Plaintiff Is Entitled To An Order To
29 Disqualify
30 California, like the federal courts have recognized that misconduct, bias or prejudice on the part of a judge,
31 may deprive one of due process by depriving him of the right to a fair and impartial trial. (See, e.g., *United*
32

1 States v. Navarro-Flores (9th Cir. 1980) 628 F.2d 1178, 1182; Corbett v. Bordenkircher (6th Cir. 1980)
2 615 F.2d 722, 723.)

3 The objective test is whether a reasonable member of the public at large, aware of all the facts that plaintiff
4 has brought before the court in the motion to disqualify, would fairly entertain doubts as to the judge's
5 impartiality (Briggs v. Superior Court (2001) 87 Cal. App. 4th 312, 318-319, 104 Cal. Rptr. 2d 445; Ng v.
6 Superior Court (1997) 52 Cal. App. 4th 1010, 1024, 61 Cal. Rptr. 2d 49]. Code Civ. Proc. §170. 1 (a) (6)
7 is broader than the former Code Civ. Proc. § 170(a)(5) which provided for disqualification when it
8 appeared probable that, by reason of bias or prejudice on the part of the judge, a fair and impartial trial
9 could not be had before that judge [*see Ensher, Alexander & Barsoom v. Ensher* (1964) 225 Cal. App. 2d
10 318,322-323, 37 Cal. Rptr. 327].

11 In consideration of the gravity of the issues leveled here of possible cronyism, collusion, inappropriate ex
12 parte communications, friendship and favoritism displayed towards certain parties, and considering
13 specifically, Code of Civil Procedure section 170 provides in pertinent part: "(a) No justice or judge shall sit
14 or act as such in any action or proceeding: [para.] . . . [para.] (5) When it is made to appear probable that,
15 by reason of bias or prejudice of such justice or judge a fair and impartial trial cannot be had before that
16 justice or judge." Plaintiff request that Judge Tigar recuse himself in the interest of justice as per Code of
17 Civil Procedure §170.1(a)(6)(A), and (B) in violation of the law and/or must be disqualified.

1 **CONCLUSION**

2 **JUDGE TIGAR SHOULD DISQUALIFY HIMSELF**

3 When the herein named judge fails to disqualify himself after service of this motion and after he has
4 repeatedly lied, failed and refused to respond to the allegations contained in the challenge for cause, acted
5 with misconduct; conduct prejudicial; racism; bias; prejudice; bad faith; suggested denial of due process;
6 suggested obstruction of justice; preference, and favoritism displayed towards certain parties; disdain
7 exhibited toward a party by said judge and as such; impress on those their fixed opinion and a judicial
8 imprimatur of the defense's position; again expressing his fixed opinion and establishing a blatant hostility
9 and willful misconduct are grounds for removal.[*re Kreling v. Superior Court* (1944) 25 Cal. 2d 305, 312-
10 313, 153 P.2d 734, *Keating v. Superior Court* (1955) 45 Cal. 2d 440, 444, 289 P.2d 209; *Briggs v.*
11 *Superior Court* (1932) 215 Cal. 336, 343, 10 P.2d 1103, *Evans v. Superior Court* (1930) 107 Cal. App.
12 372, 382-383, 290 P. 662]

13 Plaintiff has appropriately presented this motion pursuant to applicable legal authorities and for the
14 reasons set out above, accordingly, plaintiff is requesting that Judge Jon Tigar recuse himself from this
15 proceeding.

16
17 Respectfully submitted this 11th day of February 2008.

18
19
20 ABDUL-JALIL al-HAKIM
Plaintiff in Pro Per

21 **VERIFICATION**

22 I, Abdul-Jalil al-Hakim, am the plaintiff in the above-entitled action. I have read the foregoing written
23 statement for the disqualification for cause of the Honorable Judge Jon Tigar as judge and know the
24 contents thereof. The same is true of my own knowledge, except as to those matters which are therein stated
25 on information and belief, and as to those matters, I believe it to be true. I declare under the penalty of
26 perjury under the laws of the State of California that the foregoing is true and correct.

27
28 Executed this 11th day of February, 2008, at Oakland, California.

29
30 ABDUL-JALIL al-HAKIM
31 Plaintiff in Pro Per