

1 NATAN AVRAHAM
1778 S. Shenandoah St.
2 Los Angeles, CA 90036

3 310-877-9115

4 Plaintiff Pro Se

5
6
7
8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10

11
12 NATAN AVRAHAM,
13 PLAINTIFF,

14 v.

15
16 COMMISSIONER MATTHEW ST.,
17 GEORGE, LOS ANGELES SUPERIOR
18 COURT AND STATE OF
19 CALIFORNIA,

20 DEFENDANTS.

No. CV17-05792 VAP (JCG)

SECOND SUPPLEMENT TO
OPPOSITION TO MOTION
TO DISMISS;
REQUEST FOR JUDICIAL
NOTICE

JURY TRIAL DEMANDED

SUPPLEMENT Due May 17,
2018

Courtroom: As Assigned

21 Plaintiff, Natan Avraham, shows:

22 I. INTRODUCTION

23 1. This supplement to the opposition has been allowed by the court in its
24 ruling on.

25 2. As explained in the Application to file a Supplement to the Opposition, the
26 Plaintiff received a notice of ruling from the California Commission on Judicial
27 Performance regarding the plaintiff's complaint against defendant St. George.
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

3. This ruling is relevant to the claims of plaintiff for violation of due process and efforts of the defendant to keep the Plaintiff from protesting about the biased rulings that were being made by this defendant.

4. This suit is not a claim to reverse the many rulings made by the defendant is the divorce matter that he handled. The plaintiff is aware of the Rooker-Feldman doctrine that holds that federal courts have no jurisdiction to reverse rulings made in State Courts.

5. Here, the due process claims relate to the appearance of impropriety that surrounded the hearings held by defendant St. George. The U.S. Supreme Court has ruled often that the appearance of impropriety violates the rights of litigants to fair and impartial hearings. This appearance of impropriety increased substantially after the defendant's denial of the recusal on September 3, 2015. There the matters became truly out of hand. As Plaintiff's attorney stated, the court was "out of control".

II. NEW EVIDENCE.

6. On April 5, 2018, the Plaintiff was advised that the Judicial Performance Commission had agreed with the contentions of Plaintiff. The determination of this Commission are confidential under state law. The Plaintiff has filed an application to have such matters submitted under seal. If the matter has not been ruled on by the due date of these pleadings, the plaintiff reserves the right to file the ruling by the Commission as soon as permission is granted. The Plaintiff has requested that the court take judicial notice of this ruling.

7. The ruling and other information that will become available from the Commission supports the contentions of the Plaintiff that defendant St. George denied due process to the plaintiff by failing to act as an impartial matter and lost

1
2 control of his courtroom destroying any claim that he was acting in an impartial
3 matter.

4 8. The commission's mandate is to protect the public, enforce rigorous
5 standards of judicial conduct and maintain public confidence in the integrity and
6 independence of the judicial system. While the majority of California's judges are
7 committed to maintaining the high standards expected of the judiciary, an
8 effective method of disciplining judges who engage in misconduct is essential to
9 the functioning of the California judicial system.

10 9. The judicial commission is composed of 11 members: 3 judges appointed
11 by the California Supreme Court, 4 members appointed by the Governor (2
12 attorneys and 2 nonattorney public members), 2 public members appointed by the
13 Assembly Speaker, and 2 public members appointed by the Senate Rules
14 Committee.

15 10. Due to its composition the Commission provides a broad array highly
16 qualified persons who are committed to high standards of conduct by judges or
17 temporary judges. Plaintiff plans to explore more details about their determination
18 but at this point the Commission's ruling shows that the defendant St. George was
19 incapable of conducting a proper judicial type proceedings. This is the essence of
20 the claim by Plaintiff that he was subjected to a proceeding that prevented him
21 from receiving due process. The ruling shows that the defendant's veiled threats
22 to call the police to arrest the Plaintiff for exercising his freedom of speech right
23 to protest biased treatment by a temporary judge is clearly outside the expected
24 norm of judicial duties. A "fair trial in a fair tribunal," is a "basic requirement
25 of due process," . *In re Murchison*, 349 U.S. 133, 136 (1955). Such a
26 requirement is impossible when the judge is biased or has an interest in the
27 outcome.

1
2 11. There is a factual question that cannot be decided by pleadings. The
3 question is whether St. George was acting with the consent of the Plaintiff in the
4 conduct of the dissolution proceeding.

5 12. "...[To] establish personal liability in a § 1983 action, it is enough to show
6 that the official, acting under color of state law, caused the deprivation of a
7 federal right." *Kentucky v. Graham*, 473 U.S. 159, 166, 105 S.Ct. 3099, 3105, 87
8 L.Ed.2d 114 (1985). The lack of due process is shown by the court record where
9 St. George claimed to be acting under color of state law. Threatening to call the
10 police to arrest the Plaintiff as a suspected terrorist (in violation of free speech
11 rights) is sufficient to state a claim for violation of rights in a Section 1983 action.

12 13. Stipulations are governed by contract principles. (See, e.g., *Palmer v. City*
13 *of Long Beach* (1948) 33 Cal. 2d 134, 142-143 [199 P.2d 952]; *Southern Pacific*
14 *Co. v. Schwartz* (1964) 226 Cal. App. 2d 481, 485-486 [38 Cal. Rptr. 283]; *Baker*
15 *v. Solari* (1958) 166 Cal. App. 2d 472, 475 [333 P.2d 791].)

16 14. Manifestly, the constitutional requirement of a "stipulation of the parties
17 litigant" as a prerequisite to a commissioner's acting as judge pro tempore (Cal.
18 Const., art. VI, § 21, *supra*) contemplates a voluntary and knowing assent. (See
19 *Palmer v. City of Long Beach*, *supra*.) While no signed stipulation was presented
20 by the defendant, there is no evidence of any such knowing assent on the part of
21 Plaintiff or his counsel in this case.

22 15. While Plaintiff claims he did not knowingly consent to the appointment of
23 defendant St. George to act as a temporary judge for the almost 3 years of
24 litigation that followed, it is clear that soon after St. George began to hear the
25 matter, the Plaintiff began to object to his hearing the matter as shown by the
26 numerous motions to disqualify St. George from hearing anything further.

27 16. The lack of impartiality led in time to a denial of due process in the matter
28

1
2 as Plaintiff was trapped into a situation where the temporary judge was strongly
3 biased against the Plaintiff and that same temporary judge prevented Plaintiff
4 from receiving a fair trial him from having his case heard by an impartial jurist. A
5 stipulation, if there is one, is nothing more than a contract. A contract can be
6 rescinded or cancelled if the object of the stipulation (the contract) cannot be
7 achieved.

8 17. The law provides a mechanism for avoiding prejudicial conduct by a
9 judicial officer. The court refused several attempts by the Plaintiff to disqualify
10 the court from hearing the matter further. These attempts were all denied. It is not
11 surprising that the Plaintiff placed a sign complaining of the biased treatment he
12 was receiving from defendant St. George. The Commission on Judicial
13 Performance took action to show that it disagreed with the actions of the
14 defendant.

15 18. **This is not an attempt to change any particular ruling of the court. The**
16 **matter is over and the time for appeal has run.** This is not to say that the Plaintiff
17 received justice in the Santa Monica Courthouse, a result the Judicial
18 Performance Commission agreed with. The fact the matter is over does not mean
19 that Plaintiff cannot now allege a denial of due process and first amendment
20 rights. A claim for these matters was filed and denied with a six month window to
21 file a court action if the Plaintiff so desired. It is appropriate to hear the matter at
22 this time.

23
24 III. FAILURE OF COMMISSION ON JUDICIAL PERFORMANCE TO
25 PROVIDE MATERIAL REQUESTED IN THE SUBPOENA PREVENTS
26 THE PLAINTIFF FROM FULLY PREPARING FOR TRIAL.
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

19. As can be seen from the correspondence and objections of the California Attorney General the Commission has failed to honor the subpoena. It has made objections that cannot be sustained.

20. As can be seen from the correspondence the CJP has an obligation to respond to the subpoena. The notes to the amended rule show that before filing a motion to compel the parties should first attempt to work out the objections and achieve the discovery without the assistance of the court.

21. It is obvious that the CJP and the California Attorney General plan to make continued frivolous objections to the discovery requested. This state of affairs cannot be sustained. Even without evidence hidden by the CJP, the plaintiff is ready to proceed with his claim.

22. Accordingly the plaintiff requests this court set a pre-trial scheduling conference and a trial date to move the case forward. The principal evidence will come from the testimony of the plaintiff as to his experiences with the so called Commissioner who presided over his divorce proceedings. The civil rights of the plaintiff has been thwarted by the California Attorney General and it is time to proceed to trial where the facts can be heard and decided.

23. Attached is Exhibit A, which contains letters from myself and Mr. Helfat of the California Attorney General Office any my response. This shows that the plaintiff has made a diligent effort to resolve the discovery matters which has been denied by the Calif. Attorney General.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

III. SETTING OF TRIAL SCHEDULING CONFERENCE

24. As it is likely that the Attorney General will continue to refuse to provide the material requested, the plaintiff asks that the court deny the pending motion to dismiss and set a trial scheduling conference for the matter.

Respectfully,

Natan Avraham

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT A

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE BY U.S. MAIL

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action: my business address is 1605 W. Olympic Blvd. # 1039 .. Los Angeles, CA 90015.

On February 4, 2019, I mailed a correct copy of the SECOND SUPPLEMENT TO OPPOSITION TO MOTION TO DISMISS by US Mail, for delivery at the addressed as follows:

XAVIER BECERRA, Attorney General of California
RICHARD ROJO, Supervising Deputy Attorney General
DANIEL L. HELFAT, Deputy Attorney General
300 South Spring Street, Suite 1702
Los Angeles, CA 90013

I caused such envelope to be sent by US MAIL this date. I declare under penalty of perjury the foregoing is true and correct.

Executed on February 4, 2019 at Los Angeles, California.

David Lilly