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4 Plaintiff Pro Se  
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9 UNITED STATES DISTRICT COURT  
10 CENTRAL DISTRICT OF CALIFORNIA

11  
12 NATAN AVRAHAM,  
13 PLAINTIFF,

14 v.  
15

16  
17 PERSONAL REPRESENTATIVE OF  
MATTHEW ST. GEORGE, DECEASED,  
18 LOS ANGELES SUPERIOR COURT AND  
STATE OF CALIFORNIA,  
19

20 DEFENDANTS.  
21

No. CV17-05792 VAP (JCG)

THIRD SUPPLEMENT TO  
MOTION TO ADD PARTIES  
MEMORANDUM  
OF POINTS AND  
AUTHORITIES

Courtroom: As Assigned

22 Plaintiff, Natan Avraham, files this third supplement to his pending motion  
23 to add parties. This motion is based on the declarations of plaintiff (Exhibit A),  
24 and such additional evidence as may be submitted and memorandum of points  
25 and authorities in support.  
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28 NOTICE OF MOTION

1 **I. STATEMENT OF FACTS.**

2 1. The Plaintiff's first amended complaint (FAC) sets forth the facts  
3 surrounding the actions of Commissioner St. George who presided over the  
4 divorce of plaintiff and his wife. The divorce agreement was agreed to in 2011  
5 before Commissioner Cowan but there remained issues of property to be decided.  
6 The parties had three children. The Plaintiff recently requested authority to add  
7 his three children as additional plaintiffs. Docket # 52. The Court has not yet  
8 ruled on this motion. The fight to vindicate plaintiff's reputation and standing in  
9 the community has harmed his adult children as well as the plaintiff.  
10 See Declarations of Plaintiff Exhibit A).

11 2. In July of 2013, the divorce case was taken over by Commissioner St.  
12 George as Commissioner Cowan retired. Unbeknown to Plaintiff, St. George had  
13 a reputation for favoring the wife in divorce actions. This became clear during the  
14 early months of the proceedings before St. George.

15 3. Plaintiff filed two motions for disqualification of St. George for his bias  
16 prior to the hearing on September 3, 2015 on one of these motions. Prior to that  
17 hearing, Plaintiff placed a sign on his work truck that was parked near the Santa  
18 Monica Courthouse. The sign was brief and made no threatening statements. It  
19 asked only that St George obey the law. A copy of this sign is attached hereto as  
20 Exhibit B.

21 4. At the hearing on Plaintiff's Request for disqualification on September 3,  
22 2015, St. George made defamatory remarks about Plaintiff's character and  
23 conduct. He stated on the record he considered Plaintiff 's actions to be a threat  
24 and similar to those of a terrorist.

25 5. During the morning session on September 3, 2015, St George said  
26 repeatedly that he was not going to hear anything until the disqualification matter  
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1 was decided. St. George began the afternoon session with a much harsher tone.  
2 His remarks were clearly made as a threat to the Plaintiff. St. George directed Mr.  
3 Green, Plaintiff's attorney to convey his remarks to Plaintiff. Plaintiff was not  
4 present but later received a copy of the minute order denying the motion for  
5 disqualification. The minute order envelope contained a business card of a Los  
6 Angeles Deputy Sheriff. This enclosure was St. George's method of telling  
7 Plaintiff he should stop his protest of St. George's actions or he might be arrested.

8 6. Plaintiff had never been engaged in any action remotely associated with his  
9 being a terrorist. The full transcript of the September 3, 2015 hearing was filed as  
10 part of the MOTION TO ADD PARTIES to the Report of the Magistrate who  
11 reviewed the Plaintiff's FAC and a motion to dismiss, filed by the California  
12 Attorney General Office.

## 13 14 **II. LACK OF EVIDENCE TO SUPPORT MAGISTRATE REPORT**

15 7. The Magistrate committed reversible error by refusing to consider all the  
16 evidence available before issuing her report and recommendations. The Plaintiff  
17 had filed a motion to substitute the personal representative of St. George as a  
18 defendant and request more time to file objections to the Magistrate's report, The  
19 Magistrate set June 25<sup>th</sup> as the hearing on the motion. Docket No. 47.

20 8 Attached to this motion (Docket No. 47) was Exhibit C, a copy of the court  
21 transcript for September 3, 2015. Through inadvertence, the copy of the transcript  
22 was missing pages 8-11. The Magistrate issued a notice of discrepancy and  
23 ordered the motion returned to Plaintiff. Ct. Docket No. 49. This left no important  
24 evidence for the Magistrate to consider for her report. Pages 8-11 of the Court  
25 Transcript were crucial evidence to show the violation of civil rights by St.  
26 George.

1 9. The Magistrate judge took the hearing for June 25<sup>th</sup> off calendar and  
2 decided the matter based on incomplete evidence. See docket No. 48. In this order  
3 the Magistrate states, “Although the court will not grant plaintiff more time to  
4 object, it appears plaintiff’s motion in fact includes his objections to the court’s  
5 Report and Recommendation. The court therefore construes plaintiff’s motion as  
6 containing his objections, and considers them as such” With due respect this  
7 statement makes no sense when viewed from the point of view of the missing  
8 evidence.

9 10. The Magistrate made an error by saying she was going to decide the matter  
10 based on what had been submitted. She failed to understand that without the  
11 transcript that was part of the motion that was returned, there was no evidence to  
12 support her position in the matter. In particular the missing pages prove the  
13 violation of the Plaintiff’s constitutional rights by St. George. The crucial  
14 evidence could have been provided at the hearing on June 25<sup>th</sup> had the Magistrate  
15 had the patience to allow that hearing to take place. Rather than wait she assumed  
16 she had all the evidence before her which is not possible as she had returned the  
17 motion to the Plaintiff due to the missing pages of the transcript of the hearing on  
18 September 3, 2015.

19 11. The Magistrate rushed to judgment and submitted her flawed report and  
20 recommendation to the District Judge, based on an exhibit that was attached to  
21 the motion that she had rejected for its missing pages. Thus the decision of the  
22 Magistrate makes the Report to the District Judge flawed and resulted in the  
23 District Judge making the wrong decision.

24 12. The Plaintiff filed two motions for disqualification of St. George  
25 subsequent to September 3, 2015. Both were summarily denied. Due to the  
26 obvious hostile demeanor of St. George and his continued rulings against the  
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1 Plaintiff, St. George destroyed the property rights of the Plaintiff and his children.  
2 His remarks made in open court soiled the reputation of Plaintiff. Mr. Green,  
3 Plaintiff's attorney resigned as Plaintiff's attorney. Plaintiff tried to replace Mr.  
4 Green, but it was not possible as divorce attorneys practicing in the Santa Monica  
5 area knew the bias that St. George exhibited against husbands and their attorneys.

6 13. The Magistrate's Report assumes that Plaintiff did not further object to the  
7 actions of St. George. This is incorrect. Following his ruling on September 3,  
8 2015, Commissioner St. George made it clear that he refused to step down and  
9 declared he would judge matter's fairly. He continued his control of the matter  
10 and made numerous mistakes that were a financial disaster for Plaintiff and his  
11 family.

12 14. Although the divorce had been granted there remained an apartment house  
13 on Wooster Ave. in West Los Angeles that was still subject to dispositin. Two of  
14 Plaintiff's children resided at the Wooster property. Plaintiff was forced to  
15 represent himself as best he could as attorney Green had resigned as a result of St.  
16 George's remarks liking the protest by Plaintiff as an act of terrorism and  
17 threatened to have him arrested due to his free speech protests.

18 15. The refusal by St. George to recuse himself created an impossible situation  
19 for the Plaintiff. At one point both parties to the divorce were in agreement that  
20 the apartment house on Wooster Avenue would not be sold. Yet St. George  
21 ordered it sold and forced the parties to settle on a division of the sale proceeds.  
22 This decision was a colossal mistake by St. George. It failed to take into account  
23 the fact that two of plaintiff's children lived in the property. A sale deprived them  
24 of their residences and a portion of the rental income that they utilized for their  
25 support.

26 16. Although Plaintiff protested his hands were tied by the incompetence of St.  
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1 George and his refusal to allow another judicial officer hear the matter. Plaintiff  
2 had been placed at a great disadvantage by St. George's causing the resignation of  
3 Mr. Green, plaintiff's attorney. Plaintiff continued his protest against St. George  
4 outside of the courtroom.

5 17. The law will be discussed in the memorandum of points and authorities that  
6 follow. The actions of Plaintiff are a continued protest against the Commissioner  
7 hearing the case further. While allowing a recusal after beginning a proceeding  
8 the actions of Plaintiff were a rejection in fact of the original agreement that St.  
9 George would hear the remainder of the case. While St. George ran amok he also  
10 frustrated the right of Plaintiff to right the matter by taking an appeal from the  
11 actions of St. George ordering the Wooster property to be sold. This triggered  
12 large tax liability for the Plaintiff and ousted two of his children from their  
13 homes.

14 18. The refusal of St. George to recuse himself created a situation where due  
15 process was denied to the Plaintiff. His civil rights were violated. Plaintiff's  
16 attempts to obtain a fair hearing not only involved direct objections to St. George  
17 in the Courtroom and signs on his truck but subsequent motions to disqualify St.  
18 George from further participation in the case.

19 19. The Plaintiff made numerous protests to the Presiding Judge of the Family  
20 Law Court in Santa Monica concerning the actions of St. George. As shown by  
21 Exhibit C, the Presiding Judge saw no reason to take any action about St. George.  
22 He suggested that further complaints should be addressed to the Commission on  
23 Judicial Performance (CJP). Plaintiff filed such a complaint and the CJP rendered  
24 its decision saying that St. George would be required to take corrective actions. A  
25 copy of the CJP ruling is attached as Exhibit D. This shows that Plaintiff's  
26 complaint were real and was worthy of consideration. The Presiding Judge's  
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1 decision to treat them as frivolous was mistaken and should have been addressed  
2 much earlier to avoid violation of Plaintiff's civil rights and damage to him and  
3 his family.

4 21. St. George made several rulings that were totally against the law while at  
5 the same time maintained that he was acting objectively and had no bias against  
6 any party in the case.

7 22. The Plaintiff submitted a formal complaint against the conduct of St.  
8 George to the California Commission on Judicial Performance. This complaint  
9 was accepted and the Commission ruled in Plaintiff's favor. See Exhibit D.  
10 Thereafter, St. George was relegated to hearing small claims matters in Santa  
11 Monica and was not allowed to exercise any meaningful decision making  
12 authority. This was no doubt due to his ingrained bias and failure to follow the  
13 law as Plaintiff had claimed in his complaint to the CJP. St George died recently  
14 and his personal representative was allowed to be substituted as a defendant in his  
15 place.

16 23. Although the full transcript of the hearing on September 3, 2015 was given  
17 to the processing service, the court copy found the District Court electronic  
18 records, only had a copy of the transcript of the hearing on September 3, 2015,  
19 up to page 7. The balance of the transcript that contained 31 pages in total, could  
20 not be found in the court file. This was a major issue as the damning remarks by  
21 St. George were set forth on pages 9-11 of the transcript of September 3, 2015,  
22 that had been attached. The Magistrate never had a chance to review this crucial  
23 evidence that supported the Plaintiff's contentions of violation of his civil rights  
24 by St. George. The Plaintiff requests the court to vacate its decision to dismiss the  
25 case without leave to amend. Had the hearing taken place on June 25<sup>th</sup> as first  
26 announced, the Plaintiff would have a chance to clear up the discrepancy and  
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1 receive a fair hearing on his motion objecting to the Magistrate's report.

2 24. As a result, the District Court was misled by the flawed report and entered  
3 a dismissal of the FAC with no opportunity to correct the report or supply the  
4 missing pages of the transcript of September 3, 2015. As a result the District  
5 Court's decision is fatally flawed. The Plaintiff has been denied his right to due  
6 process by this flawed procedure.

7 25. Page 9 of the transcript shows the contempt that St. George had for the law  
8 and for civil rights of those who appeared before him. The Plaintiff's first inkling  
9 of St. George's attitude came in the minute order issued by the court denying the  
10 motion of Plaintiff to disqualify St. George from hearing any further matters in  
11 the divorce. Plaintiff had filed the motion as a pro per and did not receive the  
12 ruling for a few days after the September 3<sup>rd</sup>, 2015 hearing.

13 26. Part of what caused St. George to deny the disqualification motion was the  
14 sign that Plaintiff had posted on his work truck, protesting the bias of St. George.  
15 Exhibit C hereto.

16 27. The diatribe against Plaintiff and his action of complaining about the  
17 treatment that he had received by the Commissioner's rulings, showed the bias of  
18 St. George. Even so St. George maintained he would judge matters fairly. St.  
19 George insisted that he would remain in charge of the case. He made many  
20 adverse rulings and basically destroyed the dissolution settlement agreement that  
21 had been entered into by the parties before Commissioner Cowen.

22 28. The refusal of St. George to remove himself from the case was the crux of  
23 the civil rights violations by St. George. With St. George's adamant refusal to  
24 allow another jurist to hear the matter there was no way for the Plaintiff to receive  
25 due process in his case. An appeal would have been pointless as there was no way  
26 to put the genie back in the bottle. The Wooster property was sold and could not  
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1 be “unsold.”

2 29. The hostility of St. George caused Plaintiff’s counsel, Mr. Green, to resign  
3 as Plaintiff’s attorney shortly after the hearing on September 3, 2015. This placed  
4 the Plaintiff at a great disadvantage as far as the property division went as  
5 Plaintiff was forced to proceed as a pro per litigant. It allowed the matter to spiral  
6 downward with dreadful consequences for the Plaintiff.

7 30. In an attempt to focus attention on the lack of judicial ethics shown by St.  
8 George’s actions, the Plaintiff undertook a hunger strike which has gone on even  
9 past the completion of the dissolution. The Plaintiff was motivated to take this  
10 action by the words of St. George who indicated that he considered Plaintiff to be  
11 a terrorist and implied that he might obtain a gun and shoot people.

12 31. These statements made in open court caused great fear in Plaintiff that he  
13 might be the subject of an attack by the Los Angeles County Sheriff’s office. See  
14 declarations of Plaintiff, Exhibit A. Commissioner St. George sought to  
15 intimidate the Plaintiff by not only reporting the matter to the Sheriff’s Dept. but  
16 by including a business card from the investigating Sheriff’ Deputy with the  
17 minute order sent to Plaintiff giving his ruling on the Motion for Disqualification  
18 that was heard on September 3, 2015.

19 32. The violation of the Plaintiff’s civil rights flowed from the actions of St.  
20 George that branded Plaintiff as a terrorist and a danger to society. His refusal to  
21 step down prevented Plaintiff from receiving due process. The Plaintiff’s  
22 character and reputation have been impeccable, since emigrating to the United  
23 States from Israel. The Plaintiff had never been arrested for any violent act or  
24 breaking the law in any manner.

25 33. The comparison of Plaintiff’s actions to that of a crazy, deranged terrorist  
26 who might obtain a weapon and kill someone was totally at odds with the  
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1 Plaintiff's character and reputation. While a Judge is entitled to the benefits of  
2 free speech, he should not be permitted to broadcast his unfounded fears from the  
3 bench in a public setting. These utterances are not part of any judicial proceeding.  
4 Whatever, a judge's personal feelings might be he is not allowed to publish his  
5 opinions in a court of law as that publication can give them a status that they do  
6 not deserve. They certainly constitute extra judicial statements as they were not  
7 appropriate to his reasons for denying the motion for disqualification.

8 34. In the process of defaming the Plaintiff's character, St. George created the  
9 appearance of bias and favoritism that has no place in a judicial proceeding.  
10 Under federal rules, St. George would have been required to recuse himself at  
11 once, where there was a claim of judicial bias. No less of a rule should apply here.

12 35. The Plaintiff is well aware of the limitations of the federal courts to alter a  
13 decision made by state court judges. This suit is not about altering the  
14 unsupported and contrary rulings made by St. George. What's done has been  
15 done. The Wooster property has been sold and his children thrown on the street.  
16 The damage resulting from St. George's violation of Plaintiff's civil rights  
17 remains. The Plaintiff has continued to object to the lack of justice by daily  
18 hunger strikes at the federal courts to show the depth of his commitment to  
19 obtaining justice from this proceeding. His devotion to obtaining justice has  
20 caused him substantial harm as shown in Plaintiff's Declaration and report from  
21 Kaiser Hospital, attached as Exhibit E.

22 36. The Court's dismissal of Plaintiffs claim must be vacated. The ruling was  
23 based on the Magistrates Report that is fatally flawed as shown above. The ruling  
24 of the District Court based on a flawed Magistrate's report must not be allowed to  
25 stand.

26 37. The Report of the Magistrate Judge is literally a "rubber stamp" of the  
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1 actions taken by St. George. An investigation must be launched pursuant to the  
2 District's broad jurisdiction to protect the civil rights of all citizens appearing  
3 before the court. The evidence shows that the Magistrate ignored the substantial  
4 evidence of wrongdoing contained in the transcript of the proceedings in the  
5 Santa Monica Court, in particular, pages 9-11. As the docket entries show, this  
6 evidence was never considered by the Magistrate in formulating her Report.  
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### 9 **III. CLAIMS OF VIOLATION OF CIVIL RIGHTS**

10 38. Plaintiff's claims are violation of his civil rights, specifically, the right to  
11 free speech and due process. The claims are not requests to reverse any legal  
12 ruling of St. George in the divorce matter even though considerable mistakes  
13 were made by him.

14 39. As to the claim of violation of free speech it is clear that despite his  
15 denials, St. George was trying to chill the exercise of the Plaintiff's right of free  
16 speech. While St. George denied this intent, it was clear from his action and  
17 statements that is exactly why he was trying prevent the exposure of his lack of  
18 ability to perform his function as a judicial officer.

19 40. The extra judicial comments made by St. George on September 3, 2015  
20 form the basis for the claims against St. George for his deviation from the  
21 standard of conduct expected from judicial officers who are performing judicial  
22 functions. St George's comments were not part of the judicial proceedings. There  
23 were a threat to Plaintiff to stop exercising his right to free speech, a right  
24 guaranteed under the First Amendment to the U.S. Constitution. The CJP found  
25 that cause existed to sanction St. George due to his violation of Plaintiff's  
26 constitutional rights. The CJP ordered corrective action to be taken. See Ex. D.  
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1 41. In the Magistrate’s Report, the Magistrate is careful to limit her  
2 conclusions to acts performed as part of St. Georges’s judicial function. This  
3 relates to claims made by the California Attorney General, that the actions of St.  
4 George were protected by judicial immunity. Judicial immunity can be claimed  
5 when the act complained of was taken as part of a judicial proceeding. The  
6 Magistrate erred in concluding that any statement, made by a judicial officer is  
7 immune to liability. This is too broad an interpretation and is not the law.

8 42. There is no immunity from extra judicial statements that are not necessary  
9 to the judicial proceeding at hand. That is why a judicial officer can be held  
10 personally liable for actions and statements that are made outside of the judicial  
11 proceeding. **Nobody is above the law.** Any attempt to give preference to actions  
12 by a judge raises a question whether the action is necessarily part of a judicial  
13 function

14 43. The bedrock principal, that no man is above the law, has important  
15 ramifications for this case. As the Supreme Court has said many times, if a claim  
16 of judicial immunity was allowed to be claimed as a defense to a claim of  
17 personal liability, the effect is to create two classes of parties to the litigation.  
18 One class would have unlimited rights to take any action he or she wanted  
19 without the worry of answering for their action.

20 44. St. George was liable for his actions whether acting in a judicial capacity or  
21 not. The U.S. Constitution guarantees certain rights to its citizens. When those  
22 rights are violated then the guilty party is responsible. Immunity is not a defense  
23 when constitutional rights have been violated. There can be no different classes of  
24 liability when it comes to violation of constitutional rights. All are equal before  
25 the law.

26 45. “All the officers of the government from the highest to the lowest, are  
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1 creatures of the law, and are bound to obey it". United States v. Lee, 106 U.S.  
2 196, 220, 1 S.Ct. 240, 27 L.Ed. 171 (1882).

3 46. The purpose of statute that mandated that any person who under color of  
4 law subjected another to deprivation of his constitutional rights would be liable to  
5 the injured party in an action at law was not to abolish immunities available at  
6 common law, but to insure that federal courts would have jurisdiction of  
7 constitutional claims against state officials. Act March 3, 1875, 18 Stat. 470.  
8 Butz v. Economou 438 U.S. 478, 98 S.Ct. 2894 (U.S.N.Y.,1978).

9 47. The Attorney General has claimed that the actions of St. George are  
10 immune from liability under the Eleventh Amendment. The FAC also named the  
11 State of California, as an additional defendant. The Attorney General has claimed  
12 that the Eleventh Amendment applies to claims against this entity.

13 48. Where the constitutional rights of a citizen of California have been claimed  
14 to have been violated the Eleventh Amendment is no protection against liability.  
15 The Eleventh Amendment was not intended to afford parties freedom from  
16 liability in any case where, under color of their office, they have injured one of  
17 the State's citizens. To grant them such immunity would be to create a privileged  
18 class free from liability from wrongs inflicted or injuries threatened. Public agents  
19 must be liable to the law, unless they are to be put above the law. See Old Colony  
20 Trust Company V. City Seattle et Al. (06/01/26) 271 U.S. 426, 46 S.Ct. 552, 70  
21 L. Ed at page 431. No officer of the law may set that law at defiance with  
22 impunity. See United States v. Lee, supra.

23 49. Plaintiff's FAC clearly alleges violations of Plaintiff's Civil Rights. St.  
24 George claimed if he saw Plaintiff near his home he would call the police for  
25 protection. There was no showing that Plaintiff had done anything other than  
26 protest St. George's refusal to recuse himself. Given the reputation of St. George  
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1 in Santa Monica as a “pro wife” judge, it was not unreasonable to request him to  
2 recuse himself. St. George refused to recuse himself even though due to the  
3 complaints of the Plaintiff, he clearly should have done so.

4 50. There is no evidence that Plaintiff ever threatened any harm to St. George  
5 or any other judicial officer. Plaintiff made no threat to shoot him as St. George  
6 implied in his statement. The sign that Plaintiff posted on his truck was a  
7 protected constitutional right of free speech. His written protest was an exercise  
8 of free speech. Plaintiff exercised this right in a responsible manner by placing a  
9 sign on his truck. It was not accompanied by any threat of harm to St. George.  
10 See Exhibit B.

11 51. The Court in *Yates v. Village of Hoffman Estates*, 209 F. Supp. 757 (N.D.  
12 Ill. 1962) held that "not every action by a judge is in the exercise of his judicial  
13 function. ... it is not a judicial function for a judge to commit an intentional tort  
14 (defamation) even though the tort occurs in the courthouse. When a judge acts as  
15 a trespasser of the law, when a judge does not follow the law, the judge loses  
16 subject-matter jurisdiction and the judges' orders are void, of no legal force or  
17 effect."

18 52. St. George committed the tort of defamation of character by labeling the  
19 Plaintiff as a terrorist who posed a threat to St. George and the public. This action  
20 totally destroyed all credibility that St George may have been entitled to.  
21 "Federal tort law: judges cannot invoke judicial immunity for acts that violate  
22 litigants’s civil rights; Robert Craig Waters. *Tort & Insurance Law Journal*, Spr.  
23 1986 21 n3, p. 509-516. This article discusses the claim of judicial immunity as it  
24 is alleged as a defense to a federal tort.

25 53. “The constitution of the United States confirms and strengthens the  
26 principle, supposed to be essential to all written constitutions, that a law  
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1 repugnant to the constitution is void, and that courts, as well as other  
2 departments, are bound by that instrument." *Marbury v. Madison*, 1 Cranch 137  
3 (1803). See also *Thomas v Collins*, *supra*, 323 US 516, 531.

4 54. Hence, the act of filing suit against a governmental entity represents an  
5 exercise of the right of petition and thus invokes constitutional protection." *City*  
6 *of Long Beach v Bozek*, 31 Cal.3d 527, at 533-534 (1982). "The very essence of  
7 civil liberty certainly consists in the right of every individual to claim the  
8 protection of the laws when he receives an injury." 1 Cranch 137 at 163 (1803).

9 55. "As the U.S. Supreme Court has held, the right to petition for redress of  
10 grievances is 'among the most precious of the liberties safeguarded in the bill of  
11 rights'. (Cites). Inseparable from the guaranteed rights entrenched in the First  
12 Amendment, the right to petition for redress of grievances occupies a 'preferred  
13 place' in our system of representative government and enjoys a 'sanctity and a  
14 sanction not permitting dubious intrusions.'" *Thomas v Collins*, 323 US 516; 65  
15 S.Ct 315, 322.

16 56. Indeed, 'It was not by accident or coincidence that the rights to  
17 freedom in speech and press were coupled in a single guarantee with the rights of  
18 the people peaceably to assemble and to petition for redress of grievances.'" *Id.* at  
19 323. If the filing is protected, then surely the object of the protected right -- of  
20 obtaining a due process guaranteed fair hearing of the grievance and redress  
21 thereon -- is the very essence of the Petition Clause.

22 57. The FAC sets forth in great detail, the facts that amount to a defamation of  
23 the character by St. George. These facts are not "conclusions" that may be  
24 ignored. St. George acted in an extra-judicial manner to smear the reputation of  
25 the plaintiff and deny him a hearing on his claim of violation of civil rights. As  
26 the above authorities show, this is a matter that cannot be dismissed with the  
27

1 wave of a hand. Fundamental law has been violated here and the court must  
2 reconsider its erroneous conclusions.

3 58. In connection with St. George's actions, the Court must consider the  
4 expectations of the Plaintiff. As the above decisions recite, it has been the law of  
5 the United States that the federal courts must protect the rights of its citizens. If  
6 the courts refuse to hear such claims, then all citizens will lose hope of fairness  
7 and justice under the rule of law established by the U.S. Constitution. The actions  
8 of St. George are not immune to claims of violations of civil rights as to do so in  
9 itself is a violation of civil rights and cannot be dispensed with simplistic  
10 solutions.

11 59. Article VI, section 21 of the California Constitution states, "On stipulation  
12 of the parties litigant the court may order a cause to be tried by a temporary judge  
13 who is a member of the State Bar, sworn and empowered to act until final  
14 determination of the cause." Commissioners may be empowered to "act as judge  
15 pro tempore where otherwise qualified so to act ...." (Code Civ. Proc., § 259,  
16 subd. 4.)

17 60. A commissioner is qualified only upon stipulation of all parties litigant.  
18 *People v. Tijerina* (1969) 1 Cal. 3d 41, 48-49 [81 Cal. Rptr. 264, 459 P.2d  
19 680]; *Sarracino v. Superior Court* (1974) 13 Cal. 3d 1 [118 Cal. Rptr. 21, 529 P.2d  
20 53]. As stated in the first amended complaint, it was unclear to the Plaintiff  
21 whether a stipulation to St. George was executed. Even if a stipulation is not  
22 entered the consent of the parties to the conduct of the hearing by a commissioner  
23 may be implied by the actions of the parties in the litigation.

24 61. In *Estate of Soforenko* (1968) 260 Cal. App. 2d 765 [67 Cal. Rptr. 563] the  
25 court found that the requisite consent to the Commissioner's authority was  
26 implied from the appellant's conduct. Appellant there had been represented by an  
27



1 attorney who made no objection to a commissioner's authority to hear the matter,  
2 although the attorney had participated throughout the entire hearing. [140 Cal.  
3 App. 3d 367].

4 62. In *People v. Oaxaca* (1974) 39 Cal. App. 3d 153 [114 Cal. Rptr. 178] the  
5 court held that appellants' representation by counsel, voluntary participation,  
6 knowing and wilful acceptance of the result of the sentence imposed, and failure  
7 to attack the validity of the commissioner's authority at the initial hearing  
8 manifested his consent to the commissioner's authority.

9 63. This case shows that voluntary participation, acceptance of the decision  
10 and failure to attack the validity of the Commissioner's authority implied a  
11 consent to the authority of the court to hear and decide the matter. This case is  
12 the polar opposite of the facts in *People v. Oaxaca*. Here the Plaintiff had not  
13 accepted the appointment of St. George to hear the case.

14 64. In September of 2015, the Plaintiff moved to have St. George removed  
15 from the case due to his bias and incompetence. Despite the Plaintiff's objection  
16 to the conduct by St. George, the Plaintiff can hardly be said to have accepted the  
17 handling of the case by St. George. There can be no implied consent where the  
18 Plaintiff is actively seeking to have St. George remove himself from the case.

19 65. The Commissioner rejected the Plaintiff's request for removal and stated he  
20 would stay on the case no matter what. Plaintiff filed two subsequent motions for  
21 reconsideration of the ruling on September 3, 2015. St. George denied two  
22 subsequent motions for the same remedy. Plaintiff mounted a sign on his truck  
23 calling attention to the failure of St. George to follow the law.

24 66. Mr. Green, the Plaintiff's attorney asked to withdraw from the case as he  
25 the result of the Commissioner's bias and hostility towards the plaintiff and his  
26 counsel. Even though the court had denied his request, the Plaintiff did not give  
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1 up. He endured insults from the Judge and worried about the fact that the St.  
2 George had reported the matter to the Los Angeles Sheriff. The Sheriff told  
3 Plaintiff they would be monitoring his actions which sounded like an action a  
4 third world dictator would take against a protester.

5 67. In light of these continual efforts to remove St. George, the Plaintiff  
6 received no help from the Chief Judge in Santa Monica. The continued protests  
7 by the Plaintiff clearly show that the Plaintiff did not consent to the matter being  
8 heard by St. George. The lack of authority of the Commissioner is further  
9 demonstrated by the facts of *Nierenberg v. Superior Court* (1976) 59 Cal. App. 3d  
10 611 [130 Cal. Rptr. 847]. There, as here the court refused to imply the requisite  
11 consent as petitioner and his counsel had expressly informed the court at the  
12 outset of the proceeding that they refused to so stipulate.

13 68. A similar result was found in *Yervant Yetenekian, Petitioner, v. the*  
14 *Superior Court of Los Angeles County, Civ. No. 67009. Court of Appeals of*  
15 *California, Second Appellate District, Division One. February 28, 1983.* The  
16 Petitioner had objected early in the proceedings to have the matter heard by a  
17 commissioner. The Court of Appeals took a reasonable view of what would result  
18 in reviewing what defined an implied consent.

19 69. These cases show that if there is no implied consent then the commissioner  
20 has no authority to make a decision and any such decision is void as stated in the  
21 California Constitution. The facts of this case show that there is no consent by  
22 Plaintiff to decide matters following the protests by Plaintiff. To ignore these  
23 protests and insist of staying on the case St. George violated the civil rights of the  
24 plaintiff.

1 70. The failure to recognize these facts shows that the Magistrate Judge is  
2 aligning herself with the actions of St. George rather than taking an unbiased look  
3 at the facts the results that followed.

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5 Respectfully,

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8 Natan Avraham  
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NOTICE OF MOTION

1 EXHIBIT A - DECLARATION OF PLAINTIFF

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NOTICE OF MOTION

1 EXHIBIT B - COPY OF SIGN ON PLAINTIFF'S TRUCK  
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28 NOTICE OF MOTION

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EXHIBIT C - RESPONSE TO COMPLAINTS TO PRESIDING JUDGE OF  
FAMILY LAW IN SANTA MONICA.

1 EXHIBIT D - LETTER GIVING RULING OF CJP REGARDING ST. GEORGE

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1 EXHIBIT E - KAISER HOSPITAL REPORT

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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 October 1, 2019, I mailed a correct copy of the THIRD SUPPLEMENT TO MOTION TO ADD PARTIES; MEMORANDUM OF POINTS AUTHORITIES for delivery at the addressed as follows:

XAVIER BECERRA, Attorney General of California  
RICHARD ROJO, Superivisng 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 U.S. MAIL this date. I declare under penalty of perjury the foregoing is true and correct.

Executed on October 1, 2019 at Los Angeles, California.

\_\_\_\_\_  
David Lilly