

1 MARY CUMMINS
2 Plaintiff
3 645 W. 9th St. #110-140
4 Los Angeles, CA 90015
5 In Pro Per
6 Telephone: (310) 877-4770
7 Email: mmmaryinla@aol.com

8 IN THE COURT OF APPEAL FOR THE STATE OF CALIFORNIA

9 SECOND APPELLATE DISTRICT

10 MARY CUMMINS) Sup Court Case No. BS143169
11)
12 *Petitioner,*) VERIFIED PETITION FOR WRIT OF
13) MANDATE TO DISQUALIFY JUDGE
14) CAROL BOAS GOODSON
15)
16) STAY REQUESTED, IMMEDIATE
17) RELIEF REQUESTED
18)
19) Judge Carol Boas Goodson
20)
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29 VERIFIED PETITION FOR WRIT OF MANDATE

30 I. INTRODUCTION

31 A. NATURE OF THE PROCEEDING

32 Petitioner filed a Motion to Recuse, Disqualify Judge Carol Boas Goodson and a
33 Declaration in Support of Motion for Recusal for hearing September 27, 2013
34 [Exhibits A]. At that hearing, Judge Carol Boas Goodson deemed Petitioner's Motion
35 to Recuse, Disqualify a Statement of Disqualification as per California Code of Civil
36 Procedure 170.3 [Exhibit B, Order Striking Statement of Disqualification].

37 Rather than consenting to the Statement of Disqualification as is the intention of
38 that law, Judge Carol Boas Goodson filed an Order to Strike the Motion, justifying the
order by claiming there were no legal grounds for disqualification. However, in her

1 Order to Strike she stated that it was clear that Petitioner intended the grounds for the
2 Motion were as per 170: "A person aware of the facts might reasonably entertain a
3 doubt that the judge would be able to be impartial."

4 Petitioner herein contends that she did provide legal grounds for the disqualification
5 and that Judge Carol Boas Goodson's Order to Strike is improperly issued. Therefore,
6 she should be immediately disqualified.

7 If, however, the order was properly issued due to a procedural problem caused by
8 being an in pro per litigant, Petitioner requests the opportunity to resubmit a Statement
9 of Disqualification with the corrections made.

10 Petitioner is herein requesting the disqualification of Judge Carol Boas Goodson.

11 **B. WHY RELIEF BY WRIT IS WARRANTED**

12 As per Code of Civil Procedure 170.3(d), relief by writ is the only means of
13 determining the question of disqualification when it is disputed.

14 The Order to Strike was file stamped September 26, 2013 but the postmark for the
15 notice was September 27. The Code allows 10 days for response and 5 days for
16 mailing. Therefore, Petitioner is timely in submitting this Petition before October 6,
17 2013.

18 WHEREFORE, a Writ of Mandamus is the only adequate remedy.

19 **II. PETITION**

20 **A. NAME AND STATUS OF EACH PARTY**

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Mary Cummins	Petitioner
Judge Carol Boas Goodson	Respondent
Superior Court of California, Count of Los Angeles	Respondent
Amanda Lollar	Real Party of Interest

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1 **B. BACKGROUND AND PROCEDURAL HISTORY**

2 Cummins applied for a TRO against Amanda Lollar May 24, 2013 and received it #
3 BS143169. Court Commissioner Carol Jane Hallowitz who became an attorney in
4 1977 signed the order. Cummins had Lollar served in Texas May 28, 2013.

5 Instantly Lollar admitted she was served with the TRO then started violating the
6 restraining order by communicating directly with Cummins and continuing her
7 harassment. Lollar violated the TRO over 100 times during the first two weeks alone.
8 Cummins filed two violation of restraining order reports with LAPD with exhibits.
9 LAPD instructed Cummins to keep a log of the violations which she did.

10 June 14, 2013 was the restraining order hearing. Court Coordinator Sharon Charles
11 stated an experienced attorney would hear the cases that day. Cummins signed a form
12 stating that she agreed to have Judge pro tem Marjorie A. Marenus oversee the case.
13 Marenus lists as one of her main specialities in her website "Civil Harassment
14 Restraining Orders." Marnenus has over 25 years of experience. Lollar did not show
15 but her attorney Dean Rocco showed. Rocco requested a two week extension so Lollar
16 could arrange to "personally appear." Lollar received the extension with a new hearing
17 date of July 1, 2013. The TRO was also extended by Marjorie Marenus.

18 Lollar continued to violate the restraining order at least another 50 times. If
19 anything the restraining order caused Lollar to increase her harassment by ten times.
20 Cummins continued to keep a log of the violations.

21 Lollar's attorney Dean Rocco filed a response to Cummins' request for restraining
22 order. The response included unsigned documents, an unsworn statement by Lollar and
23 an unsworn statement by an unknown attorney Katherine M. McSweeney. At least
24 70% of what was stated in the responsive documents was completely false, misleading,
25 besides inadmissible in court.

26 Cummins filed a reply to their response noting the falsities with attached exhibits as
27 proof. Judge Goodson quickly flipped through Cummins' 13 page reply with 12
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1 exhibits within a minute right before the case was heard July 1, 2013. Judge Carol
2 Boas Goodson oversaw the hearing and called the case.

3 The court order states "Oral argument taken from the petitioner." Petitioner
4 Cummins was NOT allowed to give oral argument. Cummins came prepared with
5 videos and a two inch stack of evidence of over 150 violations of the temporary
6 restraining order. She had another two inch stack of paper evidence and videos of past
7 harassment, threats and the assault. The Judge instantly ruled without allowing
8 Cummins to present her case or any evidence. Judge stated in court she ruled based on
9 the TRO application alone which was only a summary.

10 Judge Goodson instantly stated that the events happened in 2010 so it's too late to
11 do anything. Cummins replied that her application for TRO stated the events started in
12 2010 and were ongoing to the present.

13 Judge Goodson then allowed Lollar's attorney to plead his response without
14 allowing Cummins to first plead her case. Attorney Rocco mentioned a previous case
15 between Cummins and Lollar. Cummins stated "objection" because that case is
16 inadmissible as evidence in this case as it is not related. Judge Goodson ignored
17 Cummins' objection completely, did not even say "over ruled" or "sustained."

18 Attorney Rocco then referred to the unsworn statements in his reply. Cummins
19 again objected as hearsay. They were not even sworn statements. Neither Lollar nor the
20 other attorney appeared in the case. Even if attorney Katherine M. McSweeney
21 appeared she was not a witness to anything. Again, Judge Goodson did not even
22 acknowledge Cummins' objections.

23 Attorney Rocco then mentioned a search for the common name "Cummins" in legal
24 filings in all of LA County. Rocco tried to infer that Petitioner "Mary Katherine
25 Cummins-Cobb" was every "Cummins" in the search results to make it appear that
26 Petitioner is litigious. Cummins again tried to object because Petitioner is not every
27 person in the search results. Previous litigation is also inadmissible as it is not related.
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1 Rocco tried to portray Cummins in false light by making it seem that she is not only
2 litigious but also loses most lawsuits which is not true.

3 Rocco told the court that Cummins tried to get a restraining order on her neighbor
4 but was denied. Cummins did indeed get a restraining order on her neighbor after he
5 assaulted her multiple times. Rocco's own exhibit shows Cummins received the
6 restraining order. Rocco, McSweeney and Lollar all committed fraud upon the court in
7 their false written and oral statements to the Court.

8 Judge Goodson stated to Cummins that she finds her application for restraining
9 order "annoying." Judge Goodson also said that Cummins was "annoying." Judge
10 Goodson stated that restraining orders are only for people who are "stabbed with a
11 knife" or "hit with a two by four." Cummins then quoted Cal. Cod of Civ. Proc. §
12 527.6 (b)(3) which states the criteria for a civil harassment restraining order i.e.
13 "Harassment' is unlawful violence, a credible threat of violence, or a knowing and
14 willful course of conduct directed at a specific person that seriously alarms, annoys, or
15 harasses the person, and that serves no legitimate purpose. The court of conduct must
16 be such as would cause a reasonable person to suffer substantial emotional distress."

17 Judge Goodson then stated that Cummins did not show substantial emotional
18 distress. Cummins tried to plead her case of emotional distress but was denied.
19 Cummins has suffered severe emotional distress as a result of Lollar's harassment.
20 Evidence of this was even included in the application for TRO. Cummins stated that
21 Lollar paid a man to pretend to serve her documents who instead hit her with the
22 documents after trespassing. Judge Goodson said paraphrased "Things get a little
23 physical with service." Lollar's own attorney stated in writing attached as exhibit in
24 the application for TRO that he didn't order the service, would never have approved of
25 it and the case ended over a month earlier. Judge Goodson seems to have only read
26 Respondent's reply and not Petitioner's response to Respondent's reply which proves
27 their allegations false.
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1 Cummins then asked Judge Goodson for permission to ask a question and was
2 allowed. Cummins asked “if I had no grounds for a restraining order, why did the
3 police officers, detectives, LAPD lawyer tell me to get a restraining order? Why did
4 the restraining order clinic state that I should get the restraining order and my
5 documents looked fine? Why did the Commissioner allow the TRO? Why did the
6 judge pro tem agree for an extension?”

7 Judge Goodson then stated “The restraining order clinic is run by a bunch of law
8 students who don’t know anything. Commissioners approved the TRO and extension.
9 They approve all TRO’s. They don’t know anything.” That of course is not true.

10 Judge Goodson denied Cummins’ request for restraining order. Judge Goodson then
11 ordered Cummins to pay \$6,350 in Lollar’s legal fees. Judge Goodson added “you
12 better get out there and start working to pay the judgement! It will follow you for 20
13 years! 20 YEARS!!!! Mr. Rocco, make sure you give Cummins your address so she
14 can send you the check within ninety days” while sneering directly at Cummins.

15 Immediately after returning home from the hearing Cummins called the court to
16 request a transcript of the proceedings. Cummins was then informed there is no audio
17 or written transcript because there are no court reporters.

18 Cummins then researched Judge Carol Boas Goodson history and reviews on the
19 Internet. Cummins found many cases where Judge Carol Boas Goodson showed
20 extreme bias to certain litigants in violation of constitutional right to due process,
21 committed grave errors in proceedings which prevented parties from having a fair trial,
22 showed extreme bias by prejudging cases, committed grave errors of law, refused to let
23 parties give oral argument and refused to let litigants offer evidence or even call
24 witnesses. These litigants appealed Judge Carol Boas Goodson’s orders and her orders
25 were reversed on appeal. The Appeals Court ruled that Judge Goodson did not give
26 litigants a fair and impartial trial and showed bias. One such case which is eerily
27 similar is Radha Bharadwaj v William Mears, Case # B222911, 2011. Judge Carol
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1 Boas Goodson did these exact same things in Cummins' case. This case was reversed.
2 Appellant was allowed a new trial by a new judge due to the bias and improper
3 behavior of Judge Carol Boas Goodson.

4 Cummins then filed an amended motion to reconsider based on appeals of Judge
5 Goodson's cases August 15, 2013 citing a Claim of Bias in Violation of Constitutional
6 Due Process, Errors Alleged to Justify a New Trial Under Cal. Code of Civ. Proc. §
7 657, Irregularities in the Section 527.6 Proceeding and Errors in Law. Cummins
8 attached a form 170.6 to the motion. Cummins included notice that she would be
9 legally recording the audio of the hearing as there were no court reporters and she
10 could not afford to hire her own reporter. This motion included motion for new trial
11 and new judge. Judge Goodson never ruled on the 170.6 filed August 15, 2013.

12 Respondent's attorney Rocco filed an opposition to motion for reconsideration. In
13 Respondent's opposition they admit pg 2 "Judge Goodman denied the RRO on the face
14 of the application itself." This shows pre-judging, pre-bias.

15 Cummins' case was called and Cummins placed the audio recorder on the table in
16 full view of the Judge. Judge Carol Boas Goodson stated "is that a recording device?"
17 Cummins answered "yes, I gave notice that I would record." Judge Goodson stated
18 "you're not allowed to record." Cummins stated "There's no court reporter." Judge
19 Goodson stated "you could have hired one. Put that phone away." Cummins again
20 quoted the law that states parties are allowed to audio record hearings. Judge Goodson
21 then stated "you would have to use proper recording equipment. That is not proper
22 equipment. Bailiff, take her phone away from her." The bailiff instantly took
23 Cummins' iPhone. The iPhone is capable of recording 25 hours of very high quality
24 audio. An mp3 of what was recorded was made.¹

25 Judge Carol Boas Goodson then asked Cummins if she had new evidence.
26 Cummins stated "yes." Judge Goodson then refused to allow Cummins to show the
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28 ¹ http://www.marycummins.com/judge_carol_boas_goodson.mp3

1 new evidence which was phone records which showed Respondent called Cummins.
2 Respondent threatened to kill Cummins on the phone. Judge Goodson again did not
3 allow Petitioner to argue her case or show any evidence. Judge Goodson denied the
4 motion to reconsider claiming there was no new evidence. Cummins stated to the court
5 she would appeal the case. Cummins went home and began writing her appeal.

6 September 3, 2013 Petitioner Cummins emailed Respondent's attorney Rocco
7 stating that Cummins has been in bed due to her ongoing back problem. Cummins
8 stated that for that reason she has not been able to get to her mail box which is 25 miles
9 away from Cummins. Cummins told Rocco that if he has mailed anything recently, he
10 should email it to her. Rocco then stated in email that he filed a motion for vexatious
11 litigant status. Rocco was trying to make it impossible for Cummins to appeal the
12 order. Rocco is taking advantage of the fact that Cummins cannot afford an attorney.
13 Cummins has the right to appeal the order. Cummins asked for a copy via email but
14 Rocco didn't send one stating the file was too large.

15 September 5, 2013 Petitioner was finally able to get out of bed to get her mail.
16 Cummins saw that this motion would be heard in Dept 75 which is Judge Goodson's
17 court so she instantly filed a 170.6 Affidavit of Prejudice Peremptory Challenge to
18 Judicial Officer Judge Carol Boas Goodson. Judge Goodson has been assigned by the
19 supervisor Judge to only hear restraining order petitions. Cummins had no idea Judge
20 Goodson would or could be hearing a motion for vexatious litigant. Petitioner filed the
21 170.6 as timely as physically possible because of her back injury. When Cummins
22 returned home Rocco had finally emailed a copy of the body of the filing.

23 September 9, 2013 Judge Carol Boas Goodson ruled that the 170.6 was not timely.
24 Cummins filed the 170.6 within an hour of being notified that the motion for vexatious
25 litigant would be heard by Judge Goodson. Cummins also filed one August 15, 2013
26 which Judge Goodson never ruled upon. This case was assigned to Dept 75. It was not
27 assigned to a particular Judge. Petitioner would only know which Judge will hear the
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1 case the morning of the hearing. It was timely. The hearing was not until September
2 27, 2013, two weeks later.

3 Cummins searched online reviews by lawyers, Judges and peers of Judge Carol
4 Boas Goodson. Some come from a book, others from Judicial review sites. The below
5 review is from a 1996, 1998 book² "California Courts and Judges, Volume 1, "
6 "GOODSON, Carol. Boas. JUDGE SUPERIOR COURT, Los Angeles County.
7 Appointment/Election: Appointed by Governor Brown Jr. Jan. 11, 1981 (date of oath
8 Jan. 13, 1981), elected in 1982, and reelected in 1988, 1994, and 2000: "But a lawyer
9 who represents tenants said that in one trial, she treated his client so harshly that the
10 client suffered a seizure right outside the courtroom, collapsed on the floor, and had to
11 be carried out..." Lawyers who represent tenants in disputes with landlords said they
12 think Judge Goodson is "nasty," "heavy-handed," "horrible," and ..."Her fiercest critic
13 among interviewees said, "She doesn't belong [on the bench]. I think she belongs in a
14 prison guarding violent prisoners. That fits her personality. She is that vicious." Two
15 attorneys recounted instances in which Judge Goodson called them liars in open court
16 even though they said she had no basis for making the accusation. Even defense
17 attorneys, who are much more favorably disposed toward her, agreed that her
18 temperament is "questionable," and "on the strong side," "stern," and "critical."
19 Lawyers said she can be quick to impose stiff sanctions."

20 Online review by lawyer, "Now if you get a limited civil case downtown, your
21 choices are so limited. If you ding Carol Boas Goodson, the most evil, biased judge
22 I've ever seen, you may get this ding bat."³

23 Online review by lawyer "Her husband is Mark Goodson of tv fame. She is pro
24 large corporate parties and very anti-underdog. She will try to set you up and play
25 games. She is lazy and should not have anything to do with the law. She will not
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27 ² "California Courts and Judges, Volume 1." Authors: Helen Y. Chang, Kathy Morris Wolf, Kenneth Jams
Arnold. 1998, 1996, pg 370.

28 ³ <http://www.underdoglaw.com/showthread.php?183-Judge-Ray-L.-Hart-Dept.-10-Stanley-Mosk-Courthouse>

1 entertain oral argument unless you push hard or cite a statute requiring oral argument
2 on that particular type of hearing. You will be forced to tell your argument to the law
3 clerk (I think his name is John) who goes back into Chambers to see the Wizard
4 (Judge). The law clerk comes out again and says sorry, tentative stands. I think I saw
5 her sanction an attorney \$100 who insisted on oral argument before the Judge. File
6 your 170.6 as to this woman."⁴

7 These are but a few reviews all of which are extremely negative which claim
8 similar bias and improper courtroom decorum. Minute transcripts included in appeals
9 show very similar behavior of not allowing oral argument/testimony, Judge Goodson
10 making fun of parties, her demeaning behavior and yelling at litigants. As per minutes
11 her hearings literally end with attorneys having to yell "I declare a mistrial! I declare a
12 mistrial!" Cummins has filed a complaint against Judge Carol Boas Goodson with the
13 Judicial Commission.

14 Petitioner filed a motion to recuse, disqualify Judge Goodson. Petitioner was unable
15 to attend the hearing on September 27, 2013 due to a back injury. Petitioner fax filed a
16 motion for continuance which was never heard. Petitioner notified the court via phone
17 three times before the hearing that she could not attend and requested a continuance.
18 Judge Goodson heard the case without Petitioner present. Judge Goodson denied
19 Petitioner's motion to recuse, disqualify and filed an order striking statement of
20 disqualification.

21 **C. ACTION OF TRIAL COURT**

22 The trial court erred in filing an Order to Strike Petitioner's Statement of
23 Disqualification rather than consenting to it. Judge Carol Boas Goodson filed the
24 Order to Strike on the basis that Petitioner's Statement to Disqualify stated no legal
25 grounds. However, she stated in her answer and Order to Strike that it was that
26 Petitioner's grounds for disqualification were according to CCP 170, which is the legal
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28 _____
⁴ <http://www.underdoglaw.com/showthread.php?21-Carol-B.-Goodson-LASC-Dept.-75>

1 grounds. Judge Carol Boas Goodson, therefore, should have complied with the
2 intention of the law which is to consent to her disqualification.

3 The Order to Strike was not intended by the legislature for this use and Petitioner is
4 hereby requesting this Court determine that Petitioner did have legal grounds for the
5 disqualification and that the Order to Strike was improperly made and void it.
6 Petitioner requests that Judge Carol Boas Goodson be automatically disqualified and
7 all her orders in this case voided.

8 **D. REQUEST FOR JUDICIAL NOTICE**

9 Petitioner hereby requests that the reviewing court take judicial notice of the entire
10 file as Respondent Lollar's attorney Dean Rocco attached at least 1.5 inches thick of
11 unrelated exhibits to each of his filings. Petitioner has attached the main motions and
12 replies which deal with the motion to disqualify, recuse Judge Goodson to this Petition.
13 All other documents are electronically filed as pdfs and are accessible through
14 lasuperiorcourt.org .

15 **E. REQUEST FOR STAY**

16 Petitioner requests a stay from this Court of Appeals while it reviews this writ.
17 Petitioner did not request a stay in the trial court due to Judge Goodson's extreme bias.
18 A stay will not prejudice respondent or real party of interest Lollar. Petitioner requests
19 a stay on the court order stating Petitioner must pay \$6,350 in attorney's fees within 90
20 days. There is no way Petitioner could ever pay this amount and she would therefore
21 be in contempt of court.

22 **F. TRANSCRIPT NOT AVAILABLE**

23 There is no transcript of the proceedings because there was no court reporter.
24 Petitioner and Respondent did not hire their own court reporter. Petitioner tried to
25 audio record the proceedings but Judge Carol Boas Goodson would not allow
26 Petitioner to record even though Petitioner gave formal written notice of her intention
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1 to record the proceeding. An mp3 of Judge Goodson denying the use of recording
2 equipment is here.⁵

3 **G. PRAYER**

4 WHEREFORE, Petitioner prays that this Court:

- 5 1. Issue a Writ mandating that Judge Carol Boas Goodson be disqualified
6 immediately.
- 7 2. Issue an order that all findings and Orders made by her to date be voided.
- 8 3. In the alternative, that Judge Carol Boas Goodson be disqualified as per CCP 170.3
9 and the Chair of the Judicial Council be notified immediately for determination of the
10 disqualification matter by a different Judge.
- 11 4. Extend the TRO to protect Petitioner while this matter is heard.
- 12 5. Grant any or all of the above and any further relief as the Court may deem just and
13 proper.

14 October 3, 2013



Petitioner, Mary Cummins

16 **III. VERIFICATION**

17 I, Mary Cummins, am the Petitioner. I have personally reviewed and am
18 familiar with the records, files and proceedings described in and the subject of the
19 present petition and know the facts set forth to be true and correct.

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

22 October 3, 2013



Petitioner, Mary Cummins

28 ⁵ http://www.marycummins.com/judge_carol_boas_goodson.mp3

1 **IV. POINTS AND AUTHORITIES**

2 "Statutes governing disqualification for cause are intended to ensure public
3 confidence in the judiciary and to protect the right of litigants to a fair and impartial
4 adjudicator – not to safeguard an asserted right, privilege or preference of a judge to
5 try or hear a particular dispute." (Curle v. Superior Court (Gleason) (2001) 24 Cal.4th
6 1057, 103)

7 Courts have repeatedly held that positive proof of the partiality of a judge is not a
8 requirement for recusal, only the appearance of partiality. Liljeberg v. Health Services
9 Acquisition Corp., 486 U.S. 847, 108 S.Ct. 2194 (1988) (what matters is not the reality
10 of bias or prejudice but its appearance); United States v. Balistreri, 779 F.2d 1191 (7th
11 Cir. 1985) (Section 455(a) "is directed against the appearance of partiality, whether or
12 not the judge is actually biased.") ("Section 455(a) of the Judicial Code, 28 U.S.C.
13 §455(a), is not intended to protect litigants from actual bias in their judge but rather to
14 promote public confidence in the impartiality of the judicial process.").

15 That Court also stated that Section 455(a) "requires a judge to recuse himself in any
16 proceeding in which her impartiality might reasonably be questioned." Taylor v.
17 O'Grady, 888 F.2d 1189 (7th Cir. 1989). In Pfizer Inc. v. Lord, 456 F.2d 532 (8th Cir.
18 1972), the Court stated that "It is important that the litigant not only actually receive
19 justice, but that he believes that he has received justice." "Recusal under Section 455 is
20 self-executing; a party need not file affidavits in support of recusal and the judge is
21 obligated to recuse herself sua sponte under the stated circumstances." Taylor v.
22 O'Grady, 888 F.2d 1189 (7th Cir. 1989)

23 The Supreme Court has ruled and has reaffirmed the principle that "justice must
24 satisfy the appearance of justice", Levine v. United States, 362 U.S. 610, 80 S.Ct. 1038
25 (1960), citing Offutt v. United States, 348 U.S. 11, 14, 75 S.Ct. 11, 13 (1954). Further,
26 the judge has a legal duty to disqualify himself even if there is no motion asking for his
27 disqualification. The Seventh Circuit Court of Appeals further stated that "We think
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1 that this language [455(a)] imposes a duty on the judge to act sua sponte, even if no
2 motion or affidavit is filed." Judges do not have discretion not to disqualify
3 themselves. By law, they are bound to follow the law. Should a judge not disqualify
4 himself as required by law, then the judge has given another example of his
5 "appearance of partiality" which, possibly, further disqualifies the judge. Should
6 another judge not accept the disqualification of the judge, then the second judge has
7 evidenced an "appearance of partiality" and has possibly disqualified himself/herself.
8 None of the orders issued by any judge who has been disqualified by law would appear
9 to be valid. It would appear that they are void as a matter of law, and are of no legal
10 force or effect. Should a judge not disqualify himself, then the judge is violation of the
11 Due Process Clause of the U.S. Constitution. The right to a tribunal free from bias or
12 prejudice is based on the Due Process Clause.

13 If the court does not follow the law as to non-represented litigants, then the judge
14 has expressed an "appearance of partiality" and, under the law, it would seem that he/
15 she has disqualified him/herself.

16 Federal law requires the automatic disqualification of a judge under certain
17 circumstances. In 1994, the U.S. Supreme Court held that "Disqualification is required
18 if an objective observer would entertain reasonable questions about the judge's
19 impartiality. If a judge's attitude or state of mind leads a detached observer to conclude
20 that a fair and impartial hearing is unlikely, the judge must be disqualified." *Liteky v.*
21 *U.S.*, 114 S.Ct. 1147, 1162 (1994)

22 CCP 170.3 Challenges for cause. A judge whose impartiality has been challenged
23 and who refuses recusal may not rule on either the disqualification or the sufficiently in
24 law or fact of the statement of disqualification.

25 CCP 170.1 (c) No actual bias required if an average person could entertain double
26 about the judge's impartiality, disqualification is mandated.
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1 CCP 170.4 Judge Goodson misapplied section 170.4 At all times the Petitioner's
2 statement was timely and did disclose legal grounds for disqualification on its face.
3 Judge Goodson should have filed a statement either admitting or denying each of
4 Petitioner's allegations of bias and due process violations pursuant to CCP 170.3.

5 Judge Goodson's rulings are void or voidable.

6 **A. ORDER TO STRIKE**

7 Judge Carol Boas Goodson has made an Order to Strike Petitioner's Motion to
8 Recuse/Statement of Disqualification, allegedly due to Petitioner not providing legal
9 grounds. As noted above, Petitioner did state legal grounds, one of which Judge Carol
10 Boas Goodson correctly noted was CCP 170: "A person aware of the facts might
11 reasonably entertain a doubt that the judge would be able to be impartial." Judge Carol
12 Boas Goodson instead infers that Petitioner's belief is not an objective one. While
13 Petitioner indeed believes that Judge Goodson is biased against her, "a person aware of
14 the facts might reasonably entertain a doubt that the judge would be able to be
15 impartial."

16 Judge Goodson is vague in her Order, does not address any specific facts Petitioner
17 presented to show lack of impartiality. She asserts that "the statement of
18 disqualification is based solely upon Petitioner's personal opinion and dissatisfaction
19 with the court's ruling." Notwithstanding the fact that is entirely false that the
20 contentions by Petitioner are mere personal opinion, the law does not provide that a
21 Statement of Disqualification can be stricken due to personal opinion. It can only be
22 stricken if there are no legal grounds [CCP 170.4(b)].

23 To the contrary, as per CCP170(c)(5): "A judge who refuses to recuse herself shall
24 not pass upon her own disqualification or upon the sufficiency in law, fact, or
25 otherwise, of the statement of disqualification filed by a party. In that case, the
26 question of disqualification shall be heard and determined by another judge..." Judge
27
28

1 Goodson in her Order to Strike is passing upon the sufficiency of Petitioner's
2 allegations instead of leaving that matter to another judge as the law requires.

3 The California Judges Association requested this provision for an Order to Strike be
4 put in law. During the legislative process the California Judges Association requested
5 the provision be put in because "criminal defendants often raised frivolous and
6 untimely disqualification challenges which slowed down the administration of
7 justice". This loophole was not meant to be used to allow a Judge to strike a statement
8 of disqualification based on the Judge's own personal opinion. It may be further
9 evidence of how entrenched she is and is another example of her "appearance of
10 partiality" which possibly further disqualifies her.

11 Following is some of the evidence supporting the legal grounds on which the
12 disqualification is based—that "a person aware of the facts might reasonably entertain
13 a doubt that the judge would be able to be impartial." These facts and evidence
14 constitute improprieties, violations of Ethical and Professional Codes, Rules of Court,
15 State, Federal and Constitutional violations, all in the service of achieving her stated
16 agenda: denying Petitioner her legal right to a restraining order.

17 **B. PREBIAS**

18 This case was decided by Judge Goodson before Petitioner ever walked into her
19 courtroom, which is the definition of prebias. There were many statements like this
20 one during the course of the proceedings made by her:

21 Judge Goodson's immediately stated at the beginning of the hearing that she finds
22 Petitioner's "application for restraining order 'annoying.'" She added "I also find you
23 'annoying.'" Petitioner hadn't even yet spoken a word.

24 Judge Goodson in her order admitted that she denied the restraining order based on
25 the petition [Exhibit C] "The court finds that the petition, on it's face, does not rise to
26 the level of the issuance of an Injunction." This again proves prebias.

1 When Petitioner received the TRO the court coordinator told Petitioner to bring all
2 evidence, documents, videos to the hearing to present to the Judge. Even though
3 Petitioner brought videotape of one assault and another instance of extreme harassment
4 besides two inches thick of physical evidence, Judge Goodson did not allow Petitioner
5 to present one piece of evidence or plead her case.

6 **C. DUE PROCESS VIOLATIONS**

7 Petitioner was not allowed to give oral argument, plead her case, show evidence, or
8 make an objection. Petitioner was denied her right to a fair trial.

9 Even after Petitioner filed the motion to reconsider Petitioner was again not allowed
10 to show evidence. Judge Goodson asked Petitioner if she had any new evidence.
11 Petitioner said "yes." Then Judge Goodson would not allow her to present the new
12 evidence! Judge Goodson then ruled that Petitioner did not show new evidence in the
13 motion and hearing to reconsider.

14 Petitioner filed a 170.6 August 2013. Judge Goodson never ruled on it yet continued
15 to over see the case. September 2013 Petitioner filed another 170.6. Judge Goodson
16 ruled it was not timely. It was timely. The case was assigned to Dept 75. It was not
17 assigned to a specific Judge. Petitioner had no way of knowing who would be the
18 Judge until the morning of the hearing. The first hearing in this case was by a Judge
19 pro tem.

20 **D. ILLEGAL SANCTION**

21 A Commissioner and Judge pro-tem both approved and extended the TRO. These
22 two lawyers who specialize in civil restraining orders believed the TRO application
23 had merit. Judge Goodson is incorrect in saying all TROs are automatically approved.
24 They are not. Judge Goodson awarded Respondent \$6,350 in legal fees. Petitioner was
25 not allowed to argue that these fees were excessive. Respondent attached to their reply
26 at least an inch thick of documents which were not related to this case at all.
27
28

1 Respondent claimed 23 hours when the actual reply was only a few pages. Petitioner
2 believes that Respondent's attorney Dean Rocco did this to pad the bill.

3 Petitioner claimed in her TRO application and hearing that she has no money and
4 no income because of the harassment by Respondent. Judge Goodson knew Petitioner
5 had no income or money yet she imposed the \$6,350 in fees in her court order knowing
6 that it is physically impossible for Petitioner to be able to obey the order. Petitioner has
7 no checking account or even a credit card because of actions by Respondent.

8 Petitioner was supposed to pay the \$6,350 within 90 days or by October 1, 2013
9 and there is no way Petitioner can ever do this. Petitioner believes Judge Goodson did
10 this so Petitioner would be in contempt of the court order. Petitioner fears Judge
11 Goodson will have Petitioner arrested for not paying the fees. Petitioner cares for a
12 wildlife sanctuary and is the only person who cares for the animals.

13 **E. LEGAL ARGUMENT**

14 **1. Judge has the duty to be impartial**

15 Judges have a duty to make their decisions free from any bias or prejudice. Cal
16 Rules of Ct, Standards of J Admin 10.20; Cal Rules of Ct, Code of Judicial Ethics,
17 Canon 3B(5). Because of this obligation, judges must disqualify themselves in
18 proceedings in which their disqualification is required by law (see CCP §170.1(a);
19 discussion in §§2.11–2.19) or in which their impartiality might reasonably be
20 questioned (CCP §170.1(a)(6)(A)(iii); see Commentary to Cal Rules of Ct, Code of
21 Judicial Ethics, Canon 3E; discussion in §§2.15–2.17).

22 **2. Grounds for disqualification**

23 a. [§2.15] Interests of Justice, Bias, and Appearance of Bias

24 In general. A judge is disqualified if

- 25 • The judge believes that recusal would serve the interests of justice (CCP §170.1(a)(6)
- 26 (A)(i)),

1 • The judge has substantial doubt that he or she could be impartial (CCP §170.1(a)(6)
2 (A)(ii)), or
3 • A person who was aware of the facts might reasonably entertain a doubt about the
4 judge's impartiality (CCP §170.1(a)(6)(A)(iii)); Commentary to Cal Rules of Ct, Code
5 of Judicial Ethics, Canon 3E. See *Housing Auth. of Monterey County v Jones* (2005)
6 130 CA4th 1029, 1041–1042, 30 CR3d 676 (judge who decided pretrial motions
7 against defendant in limited civil case was disqualified under CCP §170.1(a)(6)(A)(iii)
8 from sitting on appellate division panel that heard defendant's appeal); *DCH Health*
9 *Servs. Corp. v Waite* (2002) 95 CA4th 829, 833, 115 CR2d 847 (recusal may be
10 required on basis of mere appearance of impropriety); *Gai v City of Selma* (1998) 68
11 CA4th 213, 230–233, 79 CR2d 910 (this provision does not apply to administrative
12 hearing officers).

13 Examples. The most common examples of disqualifying bias are a judge's personal
14 bias against a party, which may not be waived (CCP §170.3(b)(2)(A)), and bias toward
15 a lawyer in the proceeding (CCP §170.1(a)(6)(B)). See *In re Buckley* (1973) 10 C3d
16 237, 256, 110 CR 121 (judge must be so personally embroiled with lawyer that judge's
17 capacity for impartiality is destroyed). Bias toward a witness is also grounds for
18 disqualification. *In re Henry C.* (1984) 161 CA3d 646, 653, 207 CR 751. Here
19 Petitioner is Petitioner, Witness and acting as her own attorney. Judge Goodson is
20 biased against Petitioner in all three instances.

21 Objective standard. Judges should use an objective standard in deciding whether a
22 person aware of the facts might entertain doubts concerning the judge's impartiality.
23 *Briggs v Superior Court* (2001) 87 CA4th 312, 319, 104 CR2d 445; *Flier v Superior*
24 *Court* (1994) 23 CA4th 165, 170, 28 CR2d 383; see *Roitz v Coldwell Banker*
25 *Residential Brokerage Co.* (1998) 62 CA4th 716, 723, 73 CR2d 85 (standard for
26 arbitrator). In deciding the question of recusal, judges should ask them- selves if a
27 reasonable person would entertain such doubts looking at the circumstances at the
28

1 present time. *United Farm Workers of Am. v Superior Court* (1985) 170 CA3d 97, 104,
2 216 CR 4. See *Ceriale v AMCO Ins. Co.* 2–13

3 Disqualification of Judge §2.16 (1996) 48 CA4th 500, 506, 55 CR2d 685
4 (relationship between arbitrator and attorney for party, although indirect, could raise
5 doubts about arbitrator’s impartiality). No actual bias required. Actual bias need not be
6 present. *Roitz v Coldwell Banker Residential Brokerage Co.*, supra, 62 CA4th at 723.
7 If an average person could entertain doubt about the judge’s impartiality, dis-
8 qualification is mandated. *Catchpole v Brannon* (1995) 36 CA4th 237, 246, 42 CR2d
9 440. An appellate court will not speculate about whether the bias was actual or merely
10 apparent; reversal is required in such a case, with remand of the matter to a different
11 judge for a new hearing on all issues. CCP §170.1(c); *In re Wagner* (2005) 127 CA4th
12 138, 147–149, 25 CR3d 201; *Roitz v Coldwell Banker Residential Brokerage Co.*,
13 supra, 62 CA4th at 723; *Catchpole v Brannon*, supra, 36 CA4th at 247; discussion in
14 §§2.20–2.21.

15 In this case Judge Carol Boas Goodson interrupted Cummins and yelled loudly at
16 her. Judge Goodson instantly stated at the beginning of the hearing that Cummins TRO
17 application is “annoying,” so is Cummins before Cummins had even spoken. Judge
18 Goodson inferred this case was a waste of her time. *Dodds v Commission on Judicial*
19 *Performance* (1995) 12 C4th 163, 176–177, 48 CR2d 106 (prejudicial conduct). “The
20 judge interrupted and yelled loudly and angrily at counsel and a litigant, that suggested
21 bias.”

22 In this case Judge Goodson also stated that restraining orders are only for people
23 “stabbed with a knife or hit with a two by four.” *Catchpole v Brannon* (1995) 36
24 CA4th 237, 262, 42 CR2d 440, “The judge stated that he considered sexual harassment
25 cases a misuse of the judicial system.” Judge Goodson again infers that this case is a
26 waste of her time. Judge Goodson also incorrectly interprets CCP § 526.7(b)(3) as
27 relating only to physical violence. In this case there was even actual physical violence.
28

1 **3. Motion to recuse, disqualify Judge is timely**

2 “The statement may be timely even if filed after the judge has made one or more
3 rulings in the case. See CCP §§170.3(b)(4), 170.4(c); Church of Scientology v
4 Wollersheim (1996) 42 CA4th 628, 655–656, 49 CR2d 620, disapproved on other
5 grounds in 29 C4th 53, 68 n5; Urias v Harris Farms, Inc. (1991) 234 CA3d 415, 419,
6 285 CR 659 (statement of disqualification was timely after judge granted motion for
7 summary judgment because litigant did not learn of grounds for disqualification
8 until then). See §2.33 for discussion of validity of judge’s rulings after judge has been
9 disqualified. However, even when the basis for disqualification is known early on, the
10 statement need not be presented until the assignment is entirely certain. See
11 Hollingsworth v Superior Court (1987) 191 CA3d 22, 27, 236 CR 193 (filing statement
12 of disqualifi- cation in advance would be superfluous and might even be insolent and
13 offensive).

14 Petitioner filed a 170.6 August 15, 2013. Petitioner only learned very recently that
15 Judge Goodson would oversee the motion for vexatious litigant. This motion is being
16 filed at the absolute earliest time. Petitioner is a pro se. It takes a little longer for a pro
17 se to research, write and file documents with the court especially considering
18 Petitioner’s back injury. Petitioner also has to drive and file documents with the court.

19 Petitioner’s 170.6 preemptory challenge was also timely even though Judge
20 Goodson denied it as untimely. When Cummins first appeared in Dept 75 a different
21 Judge was in charge of the court that day. Cummins signed an agreement that she
22 allows the Judge pro tem to hear the case. Therefore Judge Goodson was not the Judge
23 assigned to the case.

24 This case was assigned to a Department and not a specific Judge. Petitioner has no
25 way to know who will be the Judge that day until the actual morning of the hearing.
26 Petitioner therefore need only file the challenge before the hearing when Petitioner
27 knows which Judge will oversee the hearing. Petitioner filed before the hearing.
28

1 **V. CONCLUSION**

2 The main legal grounds upon which Petitioner's Motion to Recuse/ Statement of
3 Disqualification rest on is that "A person aware of the facts might reasonably entertain
4 a doubt that the judge would be able to be impartial." [CCP 170]

5 A person, and not just Petitioner, aware all of the aforementioned facts would and
6 have reasonably entertained doubt that Judge Goodson would be able to be impartial.
7 This is especially apparent in the book of Judges which include many incredibly
8 negative reviews by her peers and people who have had cases before Judge
9 Goodson. Many "people" "aware of the facts" have entertained "doubt that Judge
10 Goodson would be or has been able to be impartial." [CCP 170]

11 As noted, Section 455(a) of the Judicial Code is not intended to protect litigants
12 from actual bias in their judge but rather to promote public confidence in the
13 impartiality of the judicial process. There can be little doubt that Judge Goodson is not
14 promoting public confidence in this case.

15 Further, it is clear Judge Goodson is biased because of the extreme lengths she has
16 gone to deprive Petitioner of her Constitutional right to a fair trial. This is a complete
17 miscarriage of justice and Petitioner will never get a fair hearing or due process with
18 Judge Carol Boas Goodson. In the interest of fairness and justice, Judge Carol Boas
19 Goodson must be disqualified.

20 Respectfully submitted,

21 

22 Mary Cummins, Petitioner

23 Dated: October 3, 2013

24 645 W. 9th St. #110-140

25 Angeles, CA 90015

RULE 8.204 (C) CERTIFICATE OF COMPLIANCE

Petitioner certifies that PETITION FOR WRIT OF MANDATE AND SUPPORTING POINTS AND AUTHORITIES uses a proportionately spaced Times New Roman 14-point typeface, and the text of this brief comprises 6,822 words according to the word count provided by Mac Pages.

Dated: October 3, 2013



Petitioner, Mary Cummins

DECLARATION OF PETITIONER MARY CUMMINS

I, MARY CUMMINS, declare as follows:

1. I am Mary Cummins Petitioner in pro per.
2. I make this declaration on my personal knowledge of the matters set forth herein. I could competently testify to the matters stated herein if called to do so.
3. Attached as Exhibit A is a true and correct copy of Petitioner's Motion to Recuse, Disqualify Judge Carol Boas Goodson and a Declaration in Support of Motion for Recusal.
4. Attached as Exhibit B is a true and correct copy of Order Striking Statement of Disqualification.
5. Attached as Exhibit C is a true and correct copy of Order Denying Restraining Order.

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

Executed on October 3, 2013 at Los Angeles, California.

By: Mary Cummins
MARY CUMMINS

1 PROOF OF SERVICE BY MAIL
2 (FRCivP 5 (b)) or
3 (CCP 1013a, 2015.5) or
4 (FRAP 25 (d))

5 I am Plaintiff in pro per whose address is 645 W. 9th St. #110-140, Los Angeles,
6 California 90015-1640. I am over the age of eighteen years.

7 I further declare that on the date hereof I served a copy of:

8 **PETITION FOR WRIT OF MANDATE TO DISQUALIFY JUDGE CAROL
9 BOAS GOODSON**

10 by USPS to

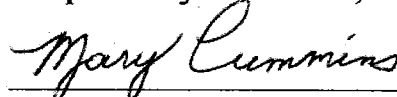
11 **Judge Carol Boas Goodson**
12 Stanley Mosk Courthouse
13 111 N. Hill St. Dept 75
14 Los Angeles, CA 90012

15 **Rocco Dean**
16 Wilson, Elser, Moskowitz, Edelman & Dicker LLP
17 555 S Flower St #2900
18 Los Angeles, CA 90071

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

21 Executed this day, October 3, 2013, at Los Angeles, California

22 Respectfully submitted,

23 

24 Mary Cummins, Petitioner

25 Dated: October 3, 2013

26 645 W. 9th St. #110-140

27 Angeles, CA 90015

28 In Pro Per

Telephone: (310) 877-4770

EXHIBIT “A”

1 MARY CUMMINS
2 Plaintiff
3 645 W. 9th St. #110-140
4 Los Angeles, CA 90015
5 In Pro Per
6 Telephone: (310) 877-4770
7 Email: mmmaryinla@aol.com

8 SUPERIOR COURT OF CALIFORNIA

9 COUNTY OF LOS ANGELES

10 MARY CUMMINS) Case No. BS143169
11)
12 *Petitioner*) AMENDED MOTION TO
13) RECONSIDER DENIAL OF CIVIL
14) RESTRAINING ORDER, AWARD OF
15) LAWYER'S COSTS AND FEES,
16) REQUEST FOR NEW TRIAL
17) BEFORE A DIFFERENT JUDGE
18)
19) Date: August 16, 2013
20) Time: 8:30 a.m..
21) Dept: 75
22)

23 Petitioner Mary Cummins ("Cummins") moves this Court to reconsider the denial
24 of her request for restraining order against Respondent Amanda Lollar ("Lollar") and
25 order to pay Respondent's legal costs and fees. Petitioner requests a new hearing
26 before a different Judge.

27 **I. INTRODUCTION**

28 Cummins contends that during the hearing conducted on her section 527.6 petition,
the trial judge exhibited bias against her in violation of her constitutional due process
right to a fair trial. Cummins further argues that the trial judge engaged in acts of
judicial misconduct and committed errors of law that deprived her of a fair trial.
Therefore a new hearing is warranted under Cal. Civ. Code of Proc. § 657 due to
irregularities in the section 527.6 hearing and the court's erroneous exclusion of

AMENDED MOTION TO RECONSIDER DENIAL OF CIVIL RESTRAINING ORDER, LAWYER'S COSTS AND
FEES, REQUEST FOR NEW TRIAL BEFORE A DIFFERENT JUDGE

1 evidence. Cummins requests to remand the matter for a new trial/hearing in front of a
2 new judge. Cummins gives notice that she will be recording audio and/or video of the
3 hearing.

4 **SUMMARY OF RELEVANT FACTS**

5 Cummins has gone through the police academy, Humane Academy to become a
6 Humane Officer. Cummins is on the Humane Society of the United States animal
7 cruelty and rescue team which investigates and reports animal cruelty.

8 Cummins was invited to intern with Lollar at Bat World Sanctuary in Texas.
9 Cummins went to Texas June 19 to June 28, 2010. Instead of learning advanced bat
10 care she witnessed and documented animal cruelty, animal neglect, violations of the
11 Animal Welfare Act and other violations.

12 Cummins left early and reported Lollar to authorities giving them photos and videos
13 besides the result of an investigation to authorities. Lollar was investigated. Violations
14 were found. A USDA veterinarian stated in writing that Lollar caused bats "pain,
15 suffering" and "death." USDA stated in writing she violated the Animal Welfare Act.
16 Texas Parks & Wildlife Department also stated in writing that Lollar violated their
17 regulations.

18 In retaliation for Cummins reporting Lollar to authorities, Lollar has been
19 harassing, cyberstalking, stalking, defaming, libeling, slandering, threatening, inciting
20 others to harass, paying others to harass and assault, filing false reports with
21 government agencies against Cummins ... since July 2010 to the present.

22 Lollar hired Robert Young to serve documents on Cummins February 17, 2013.
23 Lollar's attorney stated in writing he did not send the process server. He filed a notice
24 of inability to serve January 3, 2013 and was done with the case.

25 Cummins was preparing a private hall for the LA City Mayoral Convention. Young
26 trespassed into the closed private room, tried to lure Cummins out of the room under
27 false pretense, videotaped Cummins against her will openly and also with a hidden
28

1 camera then struck Cummins with documents. Lollar then posted the edited video
2 online without Cummins' permission. It was removed by YouTube as a "depiction of
3 violence." Cummins retained a copy. Cummins filed a police report against Lollar and
4 Young for assault report # 131506821. Young admitted to the police he was paid by
5 Lollar to do this.

6 Since then Lollar tried to access Cummins' bank accounts pretending to be
7 Cummins using her social security number and personal identifying information
8 obtained illegally. The bank denied Lollar access and played the audio tape of the
9 phone call to Cummins who recognized Lollar's voice. Cummins filed another police
10 report for identity theft report # 130108757.

11 Prior to these incidents a molotov cocktail and an M-80 were found under
12 Cummins' car within weeks of each other but the perpetrator could not be identified.
13 Cummins suspects this was ordered by Lollar but has no proof.

14 Lollar posted a death threat against Cummins online which was included in the
15 original petition. Lollar is encouraging her 40,000 Facebook fans to attack Cummins.
16 Lollar is inciting her fans to commit violence against Cummins. Her fans have made
17 death threats. People have showed up at Cummins' home address which is not public.

18 This behavior caused Cummins to send a few cease and desist emails to Lollar's
19 attorneys instructing them to keep Lollar away from her. Cummins has informed
20 Lollar's attorneys that Cummins has a loaded permitted gun and will defend herself to
21 the full extent of the law if anyone trespasses upon her property and tries to harm her.

22 Lollar has continued harassing Cummins with a knowing and willful course of
23 conduct directed at Cummins that seriously alarms, annoys, harasses Cummins and
24 that serves no legitimate purpose. The course of conduct has caused Cummins and
25 would cause a reasonable person to suffer substantial emotional distress.

26 Three LAPD officers, two LAPD detectives and an LAPD attorney all told
27 Cummins that she qualified for and should get a restraining order against Lollar. LAPD
28

1 stated an order would prevent Lollar from assaulting Cummins directly and also
2 prevent Lollar from ordering other people to assault, harass, stalk, threaten Cummins
3 on her behalf. LAPD gave Cummins printed directions to obtain a restraining order.
4 Cummins went to the restraining order clinic and they told Cummins she qualifies for
5 and should get the restraining order. They read and approved Cummins' signed forms.

6 Cummins applied for a TRO against Lollar May 24, 2013 and received it #
7 BS143169. Court Commissioner Carol Jane Hallowitz who became an attorney in
8 1977 signed the order. The Court told Cummins to be sure to bring all of her evidence
9 and witnesses to the hearing to show the Court. Cummins had Lollar served in Texas
10 May 28, 2013.

11 Instantly Lollar admitted she was served with the TRO then started violating the
12 restraining order by communicating directly with Cummins and continuing her
13 harassment. Lollar violated the TRO over 100 times during the first two weeks alone.
14 Cummins filed two violation of restraining order reports with LAPD with exhibits.
15 LAPD instructed Cummins to keep a log of the violations which she did.

16 June 14, 2013 was the restraining order hearing. The assigned Judge was not in
17 attendance. The Court Coordinator Sharon Charles stated an experienced attorney
18 would hear the cases that day. Cummins signed a form stating that she agreed to have
19 Judge pro tem Marjorie A. Marenus oversee the case. Marenus lists as one of her main
20 specialities in her website "Civil Harassment Restraining Orders." Marnenus has over
21 25 years of experience. Lollar did not show but her attorney Dean Rocco showed.
22 Rocco requested a two week extension so Lollar could arrange to "personally appear."
23 Lollar received the extension with a new hearing date of July 1, 2013. The TRO was
24 also extended by Marjorie Marenus.

25 Lollar continued to violate the restraining order at least another 50 times. If
26 anything the restraining order caused Lollar to increase her harassment by ten times.
27 Cummins continued to keep a log of the violations.
28

1 Lollar's attorney Dean Rocco filed a response to Cummins' request for restraining
2 order. The response included unsigned documents, an unsworn statement by Lollar and
3 an unsworn statement by an unknown attorney Katherine M. McSweeney. At least
4 70% of what was stated in the responsive documents was completely false, misleading,
5 besides inadmissible in court.

6 Cummins filed a reply to their response noting the falsities with attached exhibits as
7 proof. The Judge quickly flipped through Cummins' 13 page reply with 12 exhibits
8 within a minute right before the case was heard July 1, 2013. Judge Carol Boas
9 Goodson oversaw the hearing and called the case.

10 The court order Exhibit 1 states "Oral argument taken from the petitioner."
11 Petitioner Cummins was NOT allowed to give oral argument. Cummins came prepared
12 with videos and a two inch tall stack of evidence of over 150 violations of the
13 temporary restraining order. She had another two inch stack of paper evidence and
14 videos of past harassment, threats and the assault. The Judge instantly ruled without
15 allowing Cummins to present her case or any evidence. Judge stated in court she ruled
16 based on the TRO application alone which was only a summary. The Judge prejudged
17 the case.

18 Judge Goodson instantly stated that the events happened in 2010 so it's too late to
19 do anything. Cummins replied that her application for TRO stated the events started in
20 2010 and were ongoing to the present.

21 Judge Goodson then allowed Lollar's attorney to plead his response without
22 allowing Cummins to first plead her case. Attorney Rocco mentioned a previous case
23 between Cummins and Lollar. Cummins stated "objection" because that case is
24 inadmissible as evidence in this case as it is not related. Judge Goodson ignored
25 Cummins' objection completely, did not even say "over ruled" or "sustained."

26 Attorney Rocco then referred to the unsworn statements in his reply. Cummins
27 again objected as hearsay. They were not even sworn statements. Neither Lollar nor the
28

1 other attorney appeared in the case. Even if attorney Katherine M. McSweeney
2 appeared she was not a witness to anything. Again, Judge Goodson did not even
3 acknowledge Cummins' objections.

4 Attorney Rocco then mentioned a search for the common name "Cummins" in legal
5 filings in all of LA County. Rocco tried to infer that Petitioner was every "Cummins"
6 in the search results to make it appear that Petitioner is litigious. Cummins again tried
7 to object because Petitioner is not every person in the search results. Previous litigation
8 is also inadmissible as it is not related. Rocco tried to portray Cummins in false light
9 by making it seem that she is not only litigious but also loses most lawsuits which is
10 not true.

11 Rocco told the court that Cummins tried to get a restraining order on her neighbor
12 but was denied. Cummins did indeed get a restraining order on her neighbor after he
13 assaulted her multiple times. Rocco's own exhibit shows Cummins received the
14 restraining order. Rocco, McSweeney and Lollar all committed fraud upon the court in
15 their false written and oral statements to the Court.

16 Judge Goodson stated to Cummins that she finds her application for restraining
17 order "annoying." Judge Goodson also said that Cummins was "annoying." Judge
18 Goodson stated that restraining orders are only for people who are "stabbed with a
19 knife" or "hit with a two by four." Cummins then quoted Cal. Cod of Civ. Proc. §
20 527.6 (b)(3) which states the criteria for a civil harassment restraining order i.e.
21 **"Harassment' is unlawful violence, a credible threat of violence, or a knowing**
22 **and willful course of conduct directed at a specific person that seriously alarms,**
23 **annoys, or harasses the person, and that serves no legitimate purpose. The court**
24 **of conduct must be such as would cause a reasonable person to suffer substantial**
25 **emotional distress."**

26 Judge Goodson then stated that Cummins did not show substantial emotional
27 distress. Cummins tried to plead her case of emotional distress but was denied.
28

1 Cummins has suffered severe emotional distress as a result of Lollar's harassment.
2 Evidence of this was even included in the application for TRO. Cummins stated that
3 Lollar paid a man to serve her documents who instead hit her with the documents after
4 trespassing. Judge Goodson said paraphrased "that was legal service. Things get a little
5 physical with service." Judge Goodson seems to have only read Respondent's reply
6 and not Petitioner's response to Respondent's reply which proves their allegations
7 false.

8 Cummins then asked Judge Goodson for permission to ask a question and was
9 allowed. Cummins asked "if I had no grounds for a restraining order, why did the
10 police officers, detectives, LAPD lawyer tell me to get a restraining order? Why did
11 the restraining order clinic state that I should get the restraining order and my
12 documents looked fine? Why did the Commissioner allow the TRO? Why did the
13 judge pro tem agree for an extension?"

14 Judge Goodson then stated "The restraining order clinic is run by a bunch of law
15 students who don't know anything. Commissioners approved the TRO and extension.
16 They approve all TRO's. They don't know anything."

17 Judge Goodson denied Cummins' request for restraining order. Judge Goodson then
18 ordered Cummins to pay \$6,350 in Lollar's legal fees. Judge Goodson added "you
19 better get out there and start working to pay the judgement! It will follow you for 20
20 years! 20 YEARS!!!! Mr. Rocco, make sure you give Cummins your address so she
21 can send you the check within ninety days" while sneering directly at Cummins.

22 Immediately after returning home from the hearing Cummins called the court to
23 request a transcript of the proceedings. Cummins was then informed there is no audio
24 or written transcript because there are no court reporters. This was the first time
25 Cummins was notified that there are no court reporters.

26 **II. ARGUMENT**

27 **A. A new trial may be taken from a section 527.6 hearing**

1 Section 527.6 sets forth a procedure “for what is in effect a highly expedited lawsuit
2 on the issue of harassment” (Schraer v. Berkeley Property Owners' Assn. (1989) 207
3 Cal.App.3d 719, 732 (Schraer)), and “[t]he role of the court in a section 527.6 hearing
4 does not differ from its role in other trial settings where the court is the trier of fact.”
5 (Ensworth v. Mullvain (1990) 224 Cal.App.3d 1105, 1110.) Accordingly, a party to a
6 section 527.6 hearing may move for a new trial.

7 **B. Claim of Bias In Violation of Constitutional Due Process**

8 Cummins’ federal constitutional rights to due process were violated because the
9 trial judge was biased against her as evidenced by the Judge’s behavior during the
10 hearing. Judge Boas was hostile towards Cummins, interfered with her attempt to give
11 oral argument, ridiculed her testimony, questioned her argumentatively and
12 admonished her about another unrelated case. The Judge’s behavior demonstrated that
13 the judge was biased against her, in violation of her constitutional rights to due
14 process.

15 “ ‘A fair trial in a fair tribunal is a basic requirement of due process.’ [Citation.]”
16 (People v. Freeman (2010) 47 Cal.4th 993, 1000 (Freeman).) The federal due
17 process clause requires reversal based on judicial bias where there exists “ ‘the
18 probability of actual bias on the part of the judge or decisionmaker [that] is too high to
19 be constitutionally tolerable.’ ” (Freeman, supra, 47 Cal.4th at p. 996, quoting
20 Caperton v. A.T. Massey Coal Co. (2009) 556 U.S. __, 129 S.Ct. 2252, 2257.) 3 It is
21 only “the exceptional case presenting extreme facts where a due process violation will
22 be found.” (Freeman, supra, 47 Cal.4th at p. 1005.)

23 It is not necessary to show that Cummins’ constitutional due process rights were
24 violated as a result of the trial judge's alleged bias against her. “It is a well-settled rule
25 that if statutory relief is adequate, it is unnecessary and inappropriate for a court to
26 reach constitutional issues.” (Americans for Safe Access v. County of Alameda
27 (2009) 174 Cal.App.4th 1287, 1295; see Department of Alcoholic Beverage Control v.
28

1 Alcoholic Beverage Control Appeals Bd. (2006) 40 Cal.4th 1, 17, fn. 13 [“As a
2 prudential matter, we routinely decline to address constitutional questions when it is
3 unnecessary to reach them.”].) Such judicial restraint is warranted here, because, as
4 further discussed below, a new trial is mandated under section 657 and a new judge
5 should preside over the retrial.

6 There are grounds for granting a new trial (ABF Capital Corp. v. Berglass (2005)
7 130 Cal.App.4th 825, 832.)

8 **C. Errors Alleged to Justify a New Trial Under Cal. Code of Civ. Proc. § 657**

9 A new trial is warranted due to “[i]rregularity in the proceedings of the court by
10 which either party was prevented from having a fair trial.” (§ 657, subd. (1).)

11 “Irregularities” in the proceedings and errors of law were committed by the court.
12 (Estate of Friedman (1918) 178 Cal. 27, 39 [“On a motion for a new trial, upon the
13 ground of irregularities in the proceedings of the court, we are dealing with those
14 irregularities, and it is immaterial whether they result from bias and prejudice or not.”];
15 Develop-Amatic Engineering v. Republic Mortgage Co. (1970) 12 Cal.App.3d 143,
16 150.)

17 There were numerous acts of judicial misconduct that prevented Cummins from
18 fairly presenting her case, including the court's prejudging of the case; its “assumption
19 of the role of de facto counsel for [Lollar],” including by aggressively cross-examining
20 and repeatedly expressing skepticism of her testimony; its constant interruptions
21 preventing Cummins from presenting her case; and the refusal to allow Cummins to
22 give oral testimony/argument and present evidence to the court.

23 A new trial should be granted based on the trial court's “error in law” in improperly
24 excluding evidence of events prior to 2013 to show a “course of conduct” justifying a
25 permanent injunction under section 527.6. (§ 657, subd. (7); § 527.6, subd. (b)(3).)

26 **1. Irregularities in the Section 527.6 Proceeding**

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1 The purpose of a section 527.6 hearing is to determine whether the plaintiff can
2 prove, by clear and convincing evidence, that he or she is the victim of harassment
3 justifying a permanent injunction against the harasser. (§ 527.6, subd. (d).) Section
4 527.6 defines harassment as “unlawful violence, a credible threat of violence, or a
5 knowing and willful course of conduct directed at a specific person that seriously
6 alarms, annoys, or harasses the person, and that serves no legitimate purpose. The
7 course of conduct must be such as would cause a reasonable person to suffer
8 substantial emotional distress, and must actually cause substantial emotional distress to
9 the plaintiff.” (§ 527.6, subd. (b).) A “course of conduct” is further defined as “a
10 pattern of conduct composed of a series of acts over a period of time, however short,
11 evidencing a continuity of purpose, including following or stalking an individual,
12 making harassing telephone calls to an individual, or sending harassing
13 correspondence to an individual by any means.” (§ 527.6, subd. (b)(3).)

14 There were indeed “irregularities” in the manner in which the court conducted the
15 proceeding that interfered with Cummins’ right to a fair hearing on the question
16 whether Lollar engaged in a willful and harassing course of conduct that reasonably
17 caused her emotional distress.

18 The Courts have significant leeway to control the conduct of a trial. (People v.
19 Fudge (1994) 7 Cal.4th 1075, 1108.) In particular, we note that section 527.6
20 expressly authorizes courts to make an “independent inquiry” during a hearing to
21 determine whether an injunction prohibiting harassment should be issued. (§ 527.6.
22 subd. (d).) Further, “[m]ere expressions of opinion by a trial judge based on actual
23 observation of the witnesses and evidence in the courtroom” should not be the basis for
24 reversing a judgment. (People v. Guerra (2006) 37 Cal.4th 1067, 1111.) However, in
25 this hearing, the court exceeded the bounds of reasonable conduct for a judge seeking
26 to exercise control of the proceedings and reach a fair and efficient result.
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1 First, the July 1, 2013 hearing strongly suggests that the trial judge prejudged the
2 case. (McVey v. McVey (1955) 132 Cal.App.2d 120, 123 [“A trial judge should not
3 prejudge the issues but should keep an open mind until all of the evidence is presented
4 to him.”].) In Murr v. Murr, a non-jury divorce proceeding, the judge was found to
5 have committed judicial misconduct in prejudging the case. (Murr v. Murr (1948) 87
6 Cal.App.2d 511, 521 (Murr).)

7 In fact in Respondent’s reply to Petitioner’s motion to reconsider Respondent stated
8 pg 2 ”Judge (sic) Goodman denied the RRO on the face of the application itself.”
9 Respondent admits that Judge Goodson prejudged the case before Petitioner was able
10 to present her evidence and argue her case.

11 Immediately after the trial started, the judge stated to Cummins: “You are
12 annoying. I find your application for restraining order annoying” and “restraining
13 orders are not for two people who just don’t like each other.” The trial judge here
14 seemed similarly predisposed to rule against Cummins based on a preconceived notion
15 that the case involved run-of-the-mill disputes between two individuals, as opposed to
16 harassment that deserved to be enjoined.

17 The hearing suggests the trial judge had already made up her mind before the
18 testimony even began that the case was a waste of time. The court interrupted
19 Cummins repeatedly.

20 As in Murr, the court's many “ill-advised and unnecessary comments establish
21 definitely that [she] did not consider that the issues presented by plaintiff were worthy
22 of consideration.” (Murr, supra, 87 Cal.App.2d at p. 520.)

23 When Cummins who is pro se tried to present her case, the court essentially took
24 over the examination, questioning her in a one-sided manner and characterizing her
25 testimony to fit the court's view that Cummins’ request for an injunction was motivated
26 solely by minor personal disputes, rather than a fear of continued harassment.

27 Cummins acknowledges that “ “if a judge desires to be further informed on certain
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1 points mentioned in the testimony it is entirely proper for him to ask proper questions
2 for the purpose of developing all the facts in regard to them. Considerable latitude is
3 allowed the judge in this respect as long as a fair trial is indicated [to both parties].” ’ ’
4 (Conservatorship of Pamela J. (2005) 133 Cal.App.4th 807, 827.) Moreover, in a
5 nonjury trial a judge may have greater leeway to examine witnesses than in a jury trial,
6 and particularly so here, given the court's authority under section 527.6 to “make an
7 independent inquiry.” (§ 527.6, subd. (d).) But the inquiry must be reasonable and
8 respectful. Here, the Judge cut off Cummins, belittled her, and mischaracterized her
9 testimony while questioning her in a way that was not consistent with permitting her to
10 present her case. The Judge clearly abused its discretion.

11 Cummins attempted to testify about other events such as a death threat Lollar made
12 personally over the phone but was again cut off. Cummins stated that Lollar hired a
13 process server who hit her with documents. Cummins tried to submit the video of the
14 assault but the Judge refused. The Judge dismissed her statement by saying “serving
15 documents can get physical.”

16 Repeatedly, the court cut off Cummins’ attempt to give testimony on other incidents
17 and the reasons Cummins was afraid of Lollar, inserting comments such as “that’s just
18 defamation, libel. Go sue her for it.” Cummins wanted to present the defamatory and
19 libelous blogs to show a “continued course of conduct” of “harassment” that “serves
20 no legitimate purposed.” Cummins also had evidence of over 150 violations of the
21 TRO, police reports which she tried to present but was denied. Looking at the
22 examination of Cummins as a whole, Cummins was not given a fair opportunity to
23 present her case for an injunction preventing harassment.

24 Respondent’s attorney stated in court documents that Cummins applied for a
25 restraining order against her neighbor and did not receive it. Cummins did indeed
26 receive the restraining order as evidenced by Respondent’s own Exhibit C. Lollar
27 stated she never contacted Cummins which is completely untrue. Lollar sent many,
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1 many emails and comments to Cummins which Cummins brought to the hearing but
2 was not allowed to present. Lollar stated she did not post a death threat yet in sworn
3 deposition Cummins submitted as an Exhibit Lollar admitted that she did. Lollar stated
4 that documents were dropped at Cummins' feet when Cummins was actually hit with
5 the documents as evidenced by video which Cummins linked to in her TRO
6 application but was not allowed to present at the hearing. Lollar was not even a witness
7 to the event and therefore could not give that testimony as it is hearsay.

8 Respondent's attorney stated in court documents that Cummins accused attorney
9 Randy Turner of placing an incendiary device under Cummins' car. Cummins NEVER
10 stated this. McSweeney's Exhibit L transcript from hearing minutes clearly shows
11 Cummins never stated this and McSweeney misquoted the court transcript. Respondent
12 repeatedly committed fraud upon the court by misstating the facts of the matter and
13 intentionally lying to the court.

14 In this case Respondent did not even appear at the hearing. At the previous hearing
15 Respondent's attorney requested a continuance so Respondent could arrange to
16 physically appear. There was no indication that Respondent would not appear.
17 Cummins was not allowed to examine Respondent at the hearing. The Judge was not
18 able to question Respondent. The Judge relied upon the unsworn statement written by
19 Respondent and an attorney. The unsworn statements contained many completely false
20 statements which Cummins was not allowed to refute and prove in court with her
21 evidence which she was not allowed to submit.

22 Cummins tried to object and stated "objection" to Respondent's attorney Dean
23 Rocco presenting unsworn statements as evidence, bringing up unrelated civil cases ...
24 but the Judge did not even acknowledge her objections. The Judge replied with "let the
25 man (Respondent's attorney Rocco) speak." Relying on the principle that "a judge's
26 examination of a witness may not be assigned as error on appeal where no objection
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1 was made when the questioning occurred” (People v. Corrigan (1957) 48 Cal.2d 551,
2 556) Cummins did indeed object and has not forfeited the claimed error.

3 After the Judge did not respond to Cummins’ first two objections Cummins gave up
4 trying to object. Given the tenor of these proceedings, inserting objections each time
5 the court interrupted and took over the questioning would have been futile. (People v.
6 Sturm (2006) 37 Cal.4th 1218, 1237; Haluck v. Ricoh Electronics, Inc. (2007) 151
7 Cal.App.4th 994, 1007.)

8 The Court’s repeated criticisms of Cummins further prevented Cummins from
9 properly putting on her case. (See Murr, supra, 87 Cal.App.2d at pp. 517–521.) The
10 court’s treatment of Cummins throughout the hearing was “the antithesis of judicial
11 decorum and courtesy.” (Haluck v. Ricoh Electronics, Inc., supra, 151 Cal.App.4th at
12 p. 1003.)

13 The Judge’s prejudgment of the case, her improper questioning and
14 mischaracterizing of Cummins’ testimony, and her pattern of hostility towards
15 Cummins constituted judicial misconduct and “irregularities” in the proceedings.

16 **2. Errors in Law**

17 Cummins also contends that a new trial must be granted because the court
18 committed an “error in law” in improperly excluding evidence of harassing incidents
19 prior to 2013. (§ 657, subd. (7).) 5 The trial court’s exclusion of evidence was an
20 abuse of discretion. (Tudor Ranches, Inc. v. State Comp. Ins. Fund (1998) 65
21 Cal.App.4th 1422, 1431.)

22 Section 527.6 directs the court to “receive any testimony that is relevant” at the
23 hearing on a petition for a permanent injunction against harassment. (§ 527.6, subd.
24 (d).) As discussed above, under section 527.6, harassment may consist of “a knowing
25 and willful course of conduct directed at a specific person that seriously alarms,
26 annoys, or harasses the person, and that serves no legitimate purpose,” and that
27 reasonably causes the plaintiff to suffer substantial emotional distress. (§ 527.6, subd.
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1 (b.) A course of conduct is further defined as “a pattern of conduct composed of a
2 series of acts over a period of time, however short, evidencing a continuity of
3 purpose.” (§ 527.6, subd. (b)(3).) Thus, in a section 527.6 hearing, the court is
4 “required to receive relevant testimony” regarding the alleged “course of conduct,”
5 “subject only to such reasonable limitations as are necessary to conserve the
6 expeditious nature of the harassment procedure set forth by . section 527.6.” (Schraer,
7 supra, 207 Cal.App.3d at p. 730, 733, fn. 6.)

8 The incidents forming the basis for Cummins’ application for a restraining order
9 first began in 2010. The Judge tried to immediately rule that the events all took place
10 in 2010. Cummins stated they started in 2010 and continued to today. The trial court
11 arbitrarily limited the evidence regarding instances of harassment to the time
12 immediately prior to the date the TRO was entered.

13 The trial court's ruling hampered Cummins’ ability to prove a “pattern of
14 harassment” or “course of conduct.” The trial court committed an “error in law” in
15 categorically excluding evidence of these prior events to establish a pattern of
16 harassing conduct, without any articulation of a reasonable basis for such a ruling.

17 Judge Goodson stated in the hearing that restraining orders are only for “people
18 who have been stabbed with a knife” or “hit with a two by four.” The Court ruled that
19 restraining orders are only granted when there has been physical violence. That is an
20 incorrect interpretation of section 527.6. Under section 527.6, harassment may consist
21 of “a knowing and willful course of conduct directed at a specific person that seriously
22 alarms, annoys, or harasses the person, and that serves no legitimate purpose,” and that
23 reasonably causes the plaintiff to suffer substantial emotional distress. (§ 527.6, subd.
24 (b).)

25 Lollar has been harassing Cummins since July 2010. The attacks have been
26 escalating and have become physical. Lollar paid a man to assault Cummins. Lollar
27 threatened to kill Cummins on the phone. Lollar is inciting her Facebook fans to
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1 commit violence against Cummins. Lollar has been committing criminal acts such as
2 trying to access Cummins' bank account. Lollar's behavior is indeed civil harassment
3 as per section 527.6.

4 In fact in Respondent's reply to Petitioner's motion to reconsider pg 5, 6
5 Respondent falsely stated that it is "Petitioner who has made threats of violence against
6 Respondent." Again, Respondent is committing fraud upon the court. Petitioner has
7 clearly stated in communications to Respondent's attorney that she fears for her life
8 and has a gun to protect herself from Respondent, "Cummins has informed Lollar's
9 attorneys that Cummins has a loaded permitted gun and will defend herself to the full
10 extent of the law if anyone trespasses upon her property and tries to harm her."
11 Cummins has not made threats of violence against Petitioner. Cummins has clearly
12 stated she fears for her life. In Respondent's Exhibit 3 C from the same reply Petitioner
13 states "I am prepared to legally defend myself against this crazy person." Legally
14 defending oneself is not a threat of illegal violence.

15 Not only did the Court incorrectly misstate the law at Cummins' hearing by stating
16 there must be physical violence but previously Judge Goodson awarded restraining
17 orders when there was NO physical violence involved.

18 (Case #BS140742) LAPD Chief Charlie Beck's wife Cindy Beck v Veronica
19 Roberts, January 9, 2013. Homeless person Veronica Roberts phoned Cindy Beck
20 stating the police chief was following and harassing her demanding that he stop.
21 Roberts later threatened to kill Cindy Beck on the phone. Judge Goodson stated "There
22 doesn't appear to be any reason why the restraining order should not be granted. In
23 fact, it appears appropriate."

24 (Case #BS141503) County of Los Angeles v Hashim Mwamba Bomani, March 6,
25 2013. Bomani merely ranted about an employee and the agency online. Judge Goodson
26 stated while she found his postings "insulting and libelous," they didn't "rise to the
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1 level of a threat." However, Goodson added, "I'm concerned about this guy." Judge
2 Goodson ordered Bomani to stay away from the agency and three employees.

3 Judge Goodson granted restraining orders for people and entities associated with
4 Los Angeles city and county government when there was no physical violence
5 involved. The fact that Judge Goodson granted restraining orders in these two cases
6 that did not involve physical violence, clearly shows the Court's bias against Cummins
7 and commission of error in law.

8 Judge Goodson has a history of being biased and committing errors of law. In an
9 almost identical court proceeding (Radha Bharadwaj v William Mears, Case #
10 B222911, 2011) Judge Goodson denied Petitioner Bharadwaj a restraining order and
11 ordered her to pay respondent's legal fees. Bharadwaj appealed the decision stating
12 Judge Goodson was biased and committed errors of law. The transcript of the hearing
13 contains almost identical language and behavior which Judge Goodson expressed in
14 Cummins' hearing. That order was reversed and she was allowed a new trial with a
15 different judge.

16 In searching Judge Carol Boas Goodson's judicial reviews online, there is not one
17 positive review. Not only are all the reviews negative but they are extremely negative.
18 Most of them state "File your 170.6 as to this woman" and link to the actual form. For
19 this reason Petitioner is filing an Affidavit of Prejudice Peremptory Challenge to
20 Judicial Officer as per Cal. Cod. of Civ. Proc. § 170.6 (Exhibit 1).

21 III. CONCLUSION

22 Taken individually, it is possible that none of the above acts of judicial misconduct
23 or the error in excluding evidence would constitute an error that "materially affect[ed]
24 the substantial rights" of Cummins such that a new trial was necessary. (§ 657).
25 However, "the cumulative effect of the trial judge's conduct requires reversal."
26 (People v. Sturm, supra, 37 Cal.4th at p. 1243.) "The trial of a case should not only be
27 fair in fact, but it should also appear to be fair. And where the contrary appears, it
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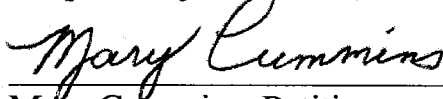
1 shocks the judicial instinct to allow the judgment to stand.” (Pratt v. Pratt (1903) 141
2 Cal. 247, 252.)

3 The order should be reversed and the matter remanded to the superior court for a
4 new trial before a different judge. (§ 187; Hernandez v. Paicius (2003) 109 Cal.App.
5 4th 452, 455, disapproved on another ground in Freeman, supra, 47 Cal.4th at p. 1006,
6 fn. 4.)

7 **IV. PRAYER**

8 WHEREFORE, PETITIONER MARY CUMMINS respectfully requests that the
9 court reverse the July 1, 2013 order and allow Cummins to have a new trial/hearing in
10 front of a different judge.

11
12
13 Respectfully submitted,

14 

15 Mary Cummins, Petitioner

16 Dated: August 15, 2013

17 645 W. 9th St. #110-140

18 Los Angeles, CA 90015

19 In Pro Per

20 Telephone: (310) 877-4770

1 **DECLARATION OF PETITIONER MARY CUMMINS**
2

3 I, MARY CUMMINS, declare as follows:

- 4 1. I am Mary Cummins Plaintiff in pro per.
5 2. I make this declaration on my personal knowledge of the matters set forth
6 herein. I could competently testify to the matters stated herein if called to do so.
7 3. Exhibit 1 attached to the original motion to reconsider is a true and correct copy
8 of the court order on the RRO hearing.
9 4. Exhibit 1 attached to this amended motion to reconsider is a true and correct
10 copy of Form 170.6.

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

13 Executed on August 15, 2013 at Los Angeles, California.
14

15 By: 
16 MARY CUMMINS
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1 PROOF OF SERVICE BY MAIL

2 (FRCivP 5 (b)) or
3 (CCP 1013a, 2015.5) or
4 (FRAP 25 (d))

5 I am Plaintiff in pro per whose address is 645 W. 9th St. #110-140, Los Angeles,
6 California 90015-1640. I am over the age of eighteen years.

7 I further declare that on the date hereof I served a copy of:

8 **PETITIONER'S AMENDED MOTION TO RECONSIDER DENIAL OF CIVIL**
9 **RESTRAINING ORDER, LAWYER'S COSTS AND FEES, REQUEST FOR**
10 **NEW TRIAL BEFORE A DIFFERENT JUDGE**

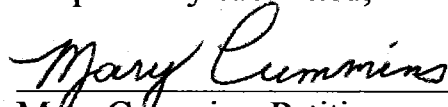
11 by USPS, fax, hand deliver and email to

12 **Rocco Dean**
13 Wilson, Elser, Moskowitz, Edelman & Dicker LLP
14 555 S Flower St #2900
15 Los Angeles, CA 90071

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

18 Executed this day, August 15, 2013, at Los Angeles, California

19 Respectfully submitted,

20 

21 Mary Cummins, Petitioner

22 Dated: August 15, 2013

23 645 W. 9th St. #110-140

24 Angeles, CA 90015

25 In Pro Per

26 Telephone: (310) 877-4770

NAME, ADDRESS, AND TELEPHONE NUMBER OF ATTORNEY OR PARTY WITHOUT ATTORNEY:		STATE BAR NUMBER	Reserved for Clerk's File Stamp
Mary Cummins Plaintiff Pro Se 645 W. 9th St. #110-140 Los Angeles, CA 90015-1640 (310) 877-4770			
ATTORNEY FOR (Name):			
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES			
COURTHOUSE ADDRESS:			
111 N Hill St, Los Angeles, CA 90012			
PLAINTIFF:			
Mary Cummins			
DEFENDANT:			
Amanda Lollar			
AFFIDAVIT OF PREJUDICE PEREMPTORY CHALLENGE TO JUDICIAL OFFICER (Code Civ. Proc., § 170.6)			CASE NUMBER: BS143169

Name of Judicial Officer	Dept./Div. Number
Judge Carol Boas Goodson	75
Judge	Commissioner Referee

I am a party (or attorney for a party) to this action or special proceeding. The judicial officer named above, before whom the trial of, or a hearing in, this case is pending, or to whom it has been assigned, is prejudiced against the party (or his or her attorney) or the interest of the party (or his or her attorney), so that declarant cannot, or believes that he or she cannot, have a fair and impartial trial or hearing before the judicial officer.

I declare under penalty of perjury, under the laws of the State of California that the foregoing is true and correct.		
Date:	Signature of Declarant	(Name of Party)
3-15-13	<i>Mary Cummins</i>	Mary Cummins
		Plaintiff Defendant Cross Complainant Cross Defendant

EXHIBIT “B”

FILED
Superior Court of California
County of Los Angeles

SEP 26 2013

Sherri B. Carter, Executive Officer/Clerk
By Sharon Charles Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

MARY CUMMINS,
Petitioner,

v.

AMANDA LOLLAR,
Respondent.

CASE NO. BS143169

ORDER STRIKING STATEMENT
OF DISQUALIFICATION

On September 20, 2013, Petitioner filed a statement of disqualification, contending that Judge Carol Boas Goodson is biased against her. The statement of disqualification is based solely upon Petitioner's personal opinion and dissatisfaction with the court's rulings. On its face, and as a matter of law, the statement of disqualification does not present lawful grounds for disqualification and is therefore ordered stricken.

Code of Civil Procedure §170.3(c)(1) requires that the disqualification statement set forth "the facts constituting the grounds" for disqualification of the judge. Mere conclusions of the pleader are insufficient. *In re Morelli* (1970) 11 Cal.App.3d 819, 843; *Urias v. Harris Farms, Inc.* (1991) 234 Cal.App.3d 415, 426.

A party's belief as to a Judge's bias and prejudice is irrelevant and not controlling in a motion to disqualify for cause, as the test applied is an objective one. *United Farm Workers of America v. Superior Court* (1985) 170 Cal.App.3d 97, 104; *Stanford University v. Superior Court* (1985) 173 Cal.App.3d 403, 408 ("the litigants' necessarily partisan views do not provide the applicable frame of reference.") This objective test requires consideration of the facts from

1 the standpoint of a "well-informed, thoughtful, and objective observer," and not that of a
2 "hypersensitive, cynical, and suspicious person." *United States v. Jordan* (5th Cir. 1995) 49 F.3d
3 152, 156.

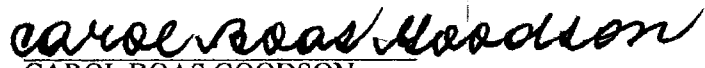
4 Rulings and findings based upon evidence and argument officially presented can almost
5 never constitute a valid basis for disqualification. *McEwen v. Occidental Life Ins. Co.* (1916)
6 172 Cal. 6, 11 (erroneous rulings, even when numerous and continuous, are not grounds for bias
7 or prejudice, nor are "judges' expressions of opinion uttered in what he conceives to be the
8 discharge of his judicial duty"). *See also*, California Procedure, 3rd Ed., Witkin, *Courts*, §94, pp.
9 111-112.

10 A party's remedy for an erroneous ruling is not a motion to disqualify, but rather review
11 by appeal or writ. *See Ryan v. Welte* (1948) 87 Cal.App.2d 888, 893: "[A] wrong opinion on the
12 law of a case does not disqualify a judge, nor is it evidence of bias or prejudice." Otherwise, the
13 court said, "no judge who is reversed by a higher court on any ruling or decision would ever be
14 qualified to proceed further in the particular case." The proper remedy, of course was an appeal
15 from the erroneous ruling. *See* 2 Witkin, California Procedure (4th ed.), *Courts*, Nondisqualifying
16 Opinions, p. 157.

17 Accordingly, since the statement of disqualification on its face disclose no legal grounds
18 for disqualification, it is ordered stricken pursuant to Code of Civil Procedure §170.4,
19 subdivision (b). The parties are reminded that this determination of the question of the
20 disqualification is not an appealable order and may be reviewed only by a writ of mandate from
21 an appellate court sought within 10 days of notice to the parties of the decision. In the event that
22 a timely writ is sought and an appellate court determines that an answer should have been timely
23 filed, such an answer is filed herewith.

24 GOOD CAUSE APPEARING THEREFOR, It is so ordered.

25
26 Date: September 26, 2013


CAROL BOAS GOODSON
Judge of the Superior Court of California
County of Los Angeles

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EXHIBIT “C”

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Verified Answer of Judge Carol Boas Goodson

I, Carol Boas Goodson, do declare under penalty of perjury:

1. I am a Judge of the Superior Court assigned to preside over this case.
2. I am not prejudiced or biased against or in favor of any party to the proceedings.
3. All rulings made by me have been based upon facts and arguments officially presented to me and upon my understanding of the law. My statements and rulings are set forth in the records and the files herein, which are the best evidence hereof. To the extent the moving party's statement of those rulings and statements are inconsistent therewith, they are denied.
4. All statements made by me and all actions taken by me in the proceedings have been done in furtherance of what I believe were my judicial duties.
5. I know of no facts or circumstances which would require my disqualification or recusal in this case.

Executed this 26th day of September, 2013, at Los Angeles, California.


CAROL BOAS GOODSON

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 07/01/13

DEPT. 75

HONORABLE CAROL BOAS GOODSON

JUDGE S. CHARLES

DEPUTY CLERK

HONORABLE
#2

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

M. LEWIS

Deputy Sheriff

NONE

Reporter

8:30 am	BS143169	Plaintiff	IN PROPRIA PERSONA
	MARY KATHERINE CUMMINS-COBB	Counsel	
	VS	Defendant	
	AMANDA LORRAINE LOLLAR	Counsel	DEAN A. ROCCO

NATURE OF PROCEEDINGS:

harassment
Hearing on Petition for Injunction Prohibiting

The above entitled matter is called for hearing.

The petitioner is sworn.

The court finds that the petition, on its face, does not rise to the level of the issuance of an Injunction.

Oral argument taken from the petitioner.

The Petition For Injunction Prohibiting Harassment is denied.

Counsel for the respondent's motion for attorney fees is granted. The petitioner is ordered to pay the Law offices of Jackson/Lewis, the sum of \$6,350.00, within ninty (90) days.

<p align="center">MINUTES ENTERED 07/01/13 COUNTY CLERK</p>
