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ORIGINAL FILED BY
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

SEP 27 2013

By Raul Sanchez, Executive Officer/Clerk
Deputy

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 COUNTY OF LOS ANGELES – CENTRAL DISTRICT
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11 MARY CUMMINS,

12 Plaintiff,

13 v.

14 AMANDA LOLLAR,

15 Defendant.
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) Case No.: BS143169

) Action filed: 5/24/2013

) **NOTICE OF RULING**

) Date: September 27, 2013

) Time: 8:30 a.m.

) Dept: 75

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22 TO THE INTERESTED PARTIES AND ATTORNEYS OF RECORD:

23 PLEASE TAKE NOTICE that Defendant Amanda Lollar’s Motion to Deem Plaintiff
24 Mary Cummins a Vexatious Litigant (“Motion to Deem Vexatious”) came on regularly for
25 hearing on September 27, 2013 at 8:30 a.m., or as soon thereafter as the matter could be heard.
26 Dean A. Rocco, Esq. appeared for Defendant. Plaintiff did not appear. The Honorable Carol
27 Boas Goodson presided.
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Considering the moving papers, as well as other recently filed pleadings from Plaintiff, the Court ruled as followed:

1. In relation to the "Motion to Recuse, Disqualify Judge Carol Boas Goodson CCP §170.3(c)(1); Motion for Sanctions CCP §128.7" ("Motion to Disqualify") filed by Plaintiff on September 20, 2013, the Court issued an Order Striking Statement of Disqualification. A true and correct copy of said Order is attached hereto as Exhibit "A." The Court did not consider the Motion to Disqualify as a noticed motion and did not consider the Motion to Disqualify beyond a request to disqualify the judge.

2. The Court denied Defendant's Motion to Deem Vexatious.

3. The Court ordered Defendant to give notice.

Dated: September 27, 2013

WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP

By: 

Dean A. Rocco
Attorneys for Defendant
AMANDA LOLLAR

EXHIBIT “A”

FILED
Superior Court of California
County of Los Angeles

SEP 26 2013

Sherri R. 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.

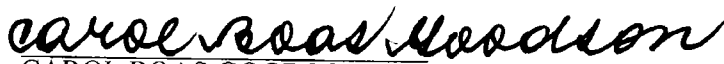
4 Rulings and findings based upon evidence and argument officially presented can almost
5 never constitute a valid basis for disqualification. *McEwen v. Occidental Life Ins. Co.* (1916)
6 172 Cal. 6, 11 (erroneous rulings, even when numerous and continuous, are not grounds for bias
7 or prejudice, nor 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.

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26 Date: September 26, 2013


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

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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

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

CASE NAME: Mary Cummins v. Amanda Lollar

CASE NUMBER: BS143169

I am employed in the County of LOS ANGELES, State of California. I am over the age of 18 and not a party to the within action; my business address is: 555 S. Flower Street, Suite 2900, Los Angeles, California 90017-5408

On September 27, 2013, I served the foregoing document described as:

NOTICE OF RULING

in this action by placing a true copy thereof in a sealed envelope addressed as follows:

Mary Cummins
645 W. 9th Street, #110-140
Los Angeles, CA 90015
Tel: (310) 877-4770

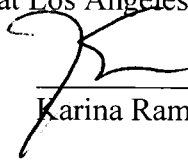
[XX] BY MAIL

[XX] I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

[XX] As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

[XX] STATE I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on September 27, 2013, at Los Angeles, California



Karina Ramirez