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Motion

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JUN 11 2009

SUPERIOR COURT OF CALIFORNIA
COUNTY OF HUMBOLDT

SUPERIOR COURT OF CALIFORNIA, COUNTY OF HUMBOLDT

VINNIE LAVENDER, by and through her
Conservator, WANDA BAKER, WALTER
SIMON; JACQUELYN VILCHINSKY,

Plaintiffs,

vs.

SKILLED HEALTHCARE GROUP, INC., et
al.,

Defendants.

CASE NO: DR060264

VERIFIED ANSWER TO MOTION
TO DISQUALIFY JUDGE
(Served June 7, 2010)

Defendant, Skilled Healthcare Group, Inc. et al., served June 7, 2010 a Motion to
Disqualify Judge, CCP §170.1(a)(6)(c).

This Verified Answer is filed pursuant to CCP §170.3(c)(3).

Defendants allege bias due to:

I. Ex parte communication by the court with plaintiff's counsel.

II. The court's failure to admonish plaintiff's counsel for physically aggressive behavior
towards defendants' counsel.

III. Rulings by the court during trial proceedings.

I:\DISQUALIFICATION\DR060264\wgf

1 IV. The decision by the court to continue the trial rather than seat an alternate juror.

2
3 I deny each allegation, and unequivocally deny any bias or prejudice towards defendants
4 or their counsel.

5
6 Specifically:

7
8 I. Ex parte communication with plaintiffs' counsel, in particular, Mr. Paul Gallegos,
9 District Attorney, Humboldt County, and Mr. Michael Crowley, attorney.

10
11 Ours is a relatively small community and bar association. I have known most attorneys
12 since I, or they, began practicing in this area. I attempt to maintain collegial, civil relations with
13 counsel. We don't necessarily agree in court but my goal is each counsel receive considered,
14 deliberate decisions, based solely on the law and facts.

15 Presently I am primarily a criminal law judge and thus have discussions from time to
16 time with Mr. Gallegos regarding criminal processing, as I do with the defense offices. These
17 are not ex parte case discussions. Most recently with Mr. Gallegos we have had discussions
18 regarding, for example, affidavits in support of arrest warrants, and the implementation of a
19 dedicated misdemeanor court.

20 With Mr. Crowley, I believe, I initiated the conversation, which included Mr. Andrew
21 Truitt, Deputy Public Defender, Humboldt County, having seen Mr. Crowley's daughter
22 receiving recognition in the local paper for school achievements. Mr. Crowley explained how
23 his daughter will be attending a Canadian University due to dual citizenship.

24
25 There were no ex parte case discussions nor any discussions in the presence or view of

1 trial jurors.

2
3 II. Failure to admonish plaintiff's counsel.

4 It is correct counsel did engage in a heated discussion, in the jury room, with myself and
5 other counsel present. Whether, in hindsight, I should have admonished one or both counsel is
6 debatable. I expect I told them to the effect, "that's enough."

7 In a trial, and long trial in particular, emotions and tension do ebb-and-flow. As the
8 court, most certainly in the courtroom, and in the presence of the jury I attempt to maintain pro-
9 fessional decorum and dignity. Outside the presence of the jury and public, however, I am less
10 adept to interject myself in counsels' squabbles, other than to advise, tell the participants to stop.

11
12 I certainly did not fail to admonish one party or the other due to bias or prejudice.

13
14 III. Trial rulings.

15 The trial record will speak for itself.

16
17 I made no ruling or decision in this case intending to favor one party over the other. Each
18 decision was intended to be based solely on the law, facts and circumstances at the time.

19
20 IV. Seating of alternate juror.

21 This has been a lengthy trial; there are two alternates. A seated juror reported ill on a
22 Monday morning. After recessing Monday she advised the court, per her doctor, she would be
23 absent for the week. Tuesday morning we would have discussed whether to wait or seat an
24 alternate. On Tuesday a second juror reported ill, for what appeared to be an unrelated illness,
25 advising us she may, or may not be able to return the next day, Wednesday. At that point, I

1 determined to recess for the week, rather than seat and lose, an alternate, believing it was highly
2 likely we would not be able to resume until Thursday in any event.

3
4 There was no intent to prejudice or favor one side or the other.

5
6 In summary, I deny bias or prejudice against either party in this proceeding, and have not
7 intended, by anything I may have said or done, to favor one party over the other.

8
9 Executed under penalty of perjury in Eureka, California, on June 11, 2010.

10
11 Dated: June 11, 2010

12
13 W. BRUCE WATSON

14 W. Bruce Watson, Judge of the Superior Court
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STATE OF CALIFORNIA,)
COUNTY OF HUMBOLDT) SS. AFFIDAVIT OF SERVICE BY MAIL

I, KATHYS, say:

That I am a citizen of the United States, over 18 years of age, a resident of the County of Humboldt, State of California, and not a party to the within action; that my business address is Humboldt County Courthouse, Eureka, California; that I served a true copy of the attached VERIFIED ANSWER TO MOTION TO DISQUALIFY JUDGE (Served June 7, 2010) by placing said copies in the attorney's mail delivery box in the Court Operations Office at Eureka, California on the date indicated below, or by placing said copies in envelope(s) and then placing the envelope(s) for collection and mailing on the date indicated below following our ordinary business practices. I am readily familiar with this business practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service at Eureka, California in a sealed envelope with postage prepaid. These copies were addressed to:

W. Needham – in Court Op's Box #5
Michael D. Thamer, P.O. Box 1568; Callahan, CA 96014-1568
Christopher J. Healey, 600 West Broadway, Suite #2600; San Diego, CA 92101
Kippy Wroten, 20 Pacifica, Suite #1100; Irvine, CA 92618
Laura K. Sitar, 20 Pacifica, Suite #1100; Irvine, CA 92618
Scott Kiepen, 575 Market Street, 23rd Floor; San Francisco, CA 94105
Paul Gallegos, District Attorney – in Court Op's Box #64
Nancy Delaney – in Court Op's Box #100

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

Executed on the 11 day of June 2010, at the City of Eureka, County of Humboldt, State of California.

KERRI L. KEENAN, Clerk of the Court

By KATHYS
Deputy Clerk