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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

NATALIA SIDIAKINA and SHERRYL  
BAECKEL,

Plaintiffs,

v.

JAMES G. BERTOLI, JUDGE, ET AL.,

Defendants.

No. C 10-03157 JSW

**ORDER GRANTING EXTENSION  
OF TIME TO RESPOND TO  
COMPLAINT; GRANTING  
LEAVE TO FILE SECOND  
AMENDED COMPLAINT;  
DENYING TRANSFER TO  
OAKLAND; DENYING REQUEST  
FOR COUNSEL; AND DENYING  
BOND**

\_\_\_\_\_ /  
The Court has received a number of filings in this matter and rules as follows:

(1) With regard to Defendants' ex parte application requesting an extension of time to respond to the complaint, the Court GRANTS the extension of time to file a response until thirty days following proper service of all defendants of the Second Amended Complaint.

(2) With regard to Plaintiffs' representation that they intended to file an Second Amended Complaint, Plaintiff is GRANTED leave to file the second amended complaint. The Second Amended Complaint shall be deemed filed and all defendants shall be served pursuant to the Court's order granting Plaintiffs' application to proceed *in forma pauperis*. However, Plaintiffs should be aware that defendants are most likely entitled to

1 immunity from suit.<sup>1</sup>

2 (3) In the Second Amended Complaint, Plaintiffs request that the undersigned  
3 transfer this action to the Oakland division of the Northern District of California. This request  
4 is DENIED. See Northern District Civil Local Rule 3-2(d).

5 (4) The Court has received an ex parte and confidential request by Plaintiffs that the  
6 Court appoint counsel. The Court shall file the application under seal. However, the Court  
7 DENIES Plaintiffs' request for the Court to appoint pro bono counsel.

8 (5) Defendants' request for an order requiring Plaintiffs to post bond is DENIED.

9 **IT IS SO ORDERED.**

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11 Dated: December 21, 2010

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14 JEFFREY S. WHITE  
15 UNITED STATES DISTRICT JUDGE

United States District Court  
For the Northern District of California

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22 <sup>1</sup> “[J]udicial immunity is an immunity from suit, not just from ultimate assessment of  
23 damages.” *Mireless v. Waco*, 502 U.S. 9, 11 (1991); see also *Stump v. Sparkman*, 435 U.S.  
24 349, 356-57 (1978). An act is considered “judicial” when it is a function normally  
25 performed by a judge and the parties dealt with the judge in his judicial capacity. See *Stump*,  
26 435 U.S. at 362. Allegations of conspiracy do not defeat such immunity. *Ashelman v. Pope*,  
27 793 F.2d 1072, 1078 (9th Cir. 1986) (en banc). “Judicial immunity applies ‘however  
28 erroneous the act may have been, and however injurious in its consequences it may have  
proved to the plaintiff.’” *Id.* (quoting *Cleavinger v. Saxner*, 474 U.S. 193 (1985)). A judge  
lacks immunity only when he or she acts “in the clear absence of all jurisdiction ... or  
performs an act that is not ‘judicial’ in nature.” *Id.* (internal citation omitted).

To determine if an individual acted in an official judicial capacity, a court must  
analyze whether: “(1) the precise act is a normal judicial function; (2) the events occurred in  
the judge’s chambers; (3) the controversy centered around a case then pending before the  
judge; and (4) the events at issue arose directly and immediately out of a confrontation with  
the judge in his or her official capacity.” *Id.* (citation omitted).

1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 NORTHERN DISTRICT OF CALIFORNIA

4  
5 ~~CERTIFICATE OF SERVICE~~  
6 Case Number: CV10-03157-JSW

7 NATALIA SIDIAKINA et al,

8 Plaintiff,

9 v.

10 JAMES G. BERTOLI et al,

11 Defendant.

12 \_\_\_\_\_ /  
13 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S.  
14 District Court, Northern District of California.

15 That on December 21, 2010, I SERVED a true and correct copy(ies) of the attached, by  
16 placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter  
17 listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an  
18 inter-office delivery receptacle located in the Clerk's office.

19 Natalia A. Sidiakina  
20 746 Adobe Drive  
21 Santa Rosa, CA 95404

22 Sherryl Baeckel  
23 10520 Village Road  
24 Moreno Valley, CA 92557

25 Dated: December 21, 2010



26 Richard W. Wieking, Clerk  
27 By: Jennifer Ottolini, Deputy Clerk  
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