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FILED

2010 DEC 17 P 12: 50

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

7 UNITED STATES DISTRICT COURT
8 NORTHERN DISTRICT OF CALIFORNIA
9 SAN FRANCISCO DIVISION

10 NATALIA A. SIDIAKINA, and
11 SHERRYL BAECKEL,
12
13 Plaintiffs,

14 v.

15 JAMES G. BERTOLI, JUDGE, in his official
and personal capacity;
16 ROBERT S. BOYD, JUDGE, in his official
and personal capacity;
17 SUPERIOR COURT OF SONOMA COUNTY;
TARA REILLY, JUDGE, in her official and
18 personal capacity;
SUPERIOR COURT OF SAN BERNARDINO
19 COUNTY;
IGNAZIO J. RUVOLO, PRESIDING JUSTICE
20 in his official and personal capacity;
TIMOTHY A. REARDON, JUSTICE, in his
21 official and personal capacity;
PATRICIA K. SEPULVEDA, JUSTICE, in her
22 official and personal capacity;
CALIFORNIA COURT OF APPEAL, FIRST
23 APPELLATE DISTRICT, DIVISION FOUR;
RONALD M. GEORGE, CHIEF JUSTICE,
24 in his official and personal capacity;
JUDICIAL COUNCIL OF CALIFORNIA,
25 STATE OF CALIFORNIA, and
JUDICIAL BRANCH OF CALIFORNIA
26 GOVERNMENT

27 Defendants.
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Case No. C 10-03157 JSW

Judge Jeffrey S. White

OPPOSITION TO

DEFENDANTS JUDGE JAMES G.
BERTOLI, JUDGE ROBERT S. BOYD
AND SUPERIOR COURT OF
CALIFORNIA, COUNTY OF SONOMA
EX PARTE APPLICATION
REQUESTING EXTENSION OF TIME
TO RESPOND TO COMPLAINT AND
REQUEST FOR ORDER REQUIRING
PLAINTIFFS TO POST BOND
MEMORANDUM OF POINTS AND
AUTHORITIES; DECLARATION OF
NATALIA A. SIDIAKINA

1 As Plaintiffs in the above-captioned matter, we, Natalia A. Sidiakina and Sherryl
2 Baeckel, respectfully ask the Court to deny Defendants' request for order for Plaintiffs to
3 post bond as security. Neither good cause nor authorization by law exists for request of
4 such security.

5 Moreover, on August 12, 2010, this Court determined that Plaintiffs are indigent
6 persons and granted Plaintiff's Application to Proceed *In Forma Pauperis*. The Order
7 granting Plaintiffs' Application to Proceed in Forma Pauperis is attached to this pleading.

8 Plaintiffs are qualified persons with cognitive disabilities, as defined by the
9 Americans with Disabilities Act (ADA) of 1990, Title II, 42 U.S.C. 12131 et. seq. and
10 Americans with Disabilities Act Amendments Act (ADAAA) of 9/25/2008, 42 U.S.C. A.
11 12101 et. seq.. Plaintiffs are unemployed as a result of their disabilities and do not have
12 valuable assets that they can dispose of in order to obtain funds to post a bond. Thus, the
13 requested by Defendants order for Plaintiffs to post bond as security will immediately
14 result in effective denial to Plaintiffs of access to this Court and access to justice and due
15 process in general.

16 Furthermore, Defendants are trying to take unconscionable advantage of Plaintiffs'
17 cognitive disabilities by intentionally misrepresenting to this Court that the issues
18 presented by Plaintiffs in this litigation "were previously adjudicated at the trial court and
19 later through appeal, without success". (Defendants' Memorandum of Points and
20 Authorities at 2:5-9).

21 Plaintiffs never requested the State courts to adjudicate the issues under the
22 Federal law. All issues that were adjudicated in the State courts have been adjudicated
23 under the State law, specifically related to disability California Rules of Court, Rule 1.100.

24 In this litigation, Plaintiffs ask the Federal Court to adjudicate the civil rights and
25 disability issues under the Federal law Americans With Disabilities Act, Title II and to
26 resolve the conflicts between the Federal law (Americans With Disabilities Act, Title II),
27 and the California State laws (Califrnia Rules of Court, Rule 1.100 and California Code of
28 Civil Procedure section 391(b)(3)), because said State laws are clearly in violation of

1 Americans With Disabilities Act, Title II.

2 Thus, none of the issues in the present case was adjudicated in the State courts
3 and the principle of res judicata and the Rooker-Feldman doctrine do not apply to this
4 litigation.

5 Plaintiffs were declared “vexatious litigants” by the State trial courts under
6 California Code of Civil Procedure, section 391(b)(3), which is in violation of the Federal
7 law Americans With Disabilities Act, Title II. This is precisely why Plaintiffs ask this Court
8 to adjudicate the novel issue of this violation and find that the Federal law prevails.

9 Defendants again misrepresent to this Court that the “vexatious litigants” status of
10 Plaintiffs “was previously adjudicated”. (Defendants’ Memorandum of Points and
11 Authorities at 4:6-17). Based on this misrepresentation of facts, Defendants ask this Court
12 to apply California Code of Civil Procedure Section 391.3 to Plaintiffs. Quite contrary to
13 Defendants intentional misrepresentations, Plaintiffs’ “vexatious litigant” status was NOT
14 adjudicated even under the California law and the Court of Appeal found that California
15 Code of Civil Procedure Section 391.3 DOES NOT apply to Plaintiff Natalia A. Sidiakina
16 during her appeal of the order of the trial court under the State law. The order of the
17 Court of Appeal of 10/22/10 with respect to requiring Plaintiff Sidiakina to post a bond
18 stated:

19 “The request for judicial notice, filed on October 18, 2010, is granted. The motion
20 to dismiss appeal or require security, filed on October 18, 2010, is denied.

21 Because the original vexatious litigant order, filed on August 16, 2010, arises out of
22 the same underlying superior court action as the concurrent appealable attorney
23 fees order, appellant need not obtain permission to proceed with the appeal. (See
24 People v. Harrison (2001) 92 Cal.App.4th 780, 785, fn. 6; In re Bittaker (1997) 55
25 Cal.App.4th 1004, 1008.)”

26 Plaintiffs followed the Federal law and sued Defendants in exact same manner, in
27 which Lane et. al. sued the State of Tennessee court system. In that suit, Lane et. al. v
28 Tennessee, case No. 3:98 CV 0731 in The United States District Court, Middle District of

1 Tennessee at Nashville, disabled paraplegics Plaintiffs prevailed. It is only reasonable to
2 expect that in this litigation cognitively disabled Plaintiffs will prevail.

3 Defendants are trying to take unconscionable advantage of Plaintiffs' cognitive
4 disabilities by intentionally misrepresenting to this Court that this case is "meritless
5 litigation" consisting of "frivolous claims". (Defendants' Memorandum of Points and
6 Authorities at 3:23-28). However, it is not for Defendants to decide the merits of this
7 litigation and whether or not Plaintiffs' claims are "frivolous". Just as it was done in above-
8 mentioned disability case Lane et. al. v Tennessee, case No. 3:98 CV 0731 in The United
9 States District Court, Middle District of Tennessee at Nashville, the Federal Court will
10 follow the established applicable Federal law and will likely decide in Plaintiffs favor.

11 The legal support for this litigation as meritorious is fully discussed in Second
12 Amended Verified Complaint – Class Action at p. 38-39.

13 In light of the foregoing, Plaintiffs respectfully request this Court to deny
14 Defendants' Request for Order Requiring Plaintiffs to Post Bond.

15 With regard to Defendants' Application for Extension of Time, Plaintiffs' Second
16 Amended Verified Complaint – Class Action is going to be filed on December 17, 2010,
17 which will make Defendants Application for Extension of Time moot.

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19 I declare under the penalty of perjury that the foregoing is true and correct.

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21 Dated: December 17, 2010

Respectfully submitted by:

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Natalia A. Sidiakina, Plaintiff

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United States District Court
For the Northern District of California

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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.

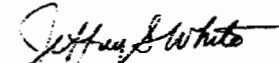
No. C 10-03157 JSW

**ORDER GRANTING
APPLICATIONS TO PROCEED *IN
FORMA PAUPERIS***

IT IS ORDERED that Plaintiffs' applications to proceed *in forma pauperis* are
GRANTED and that the Clerk issue the summons. **IT IS FURTHER ORDERED** that the U.S.
Marshal for the Northern District of California serve, without prepayment of fees, a copy of the
complaint, any amendments, scheduling orders, attachments, Plaintiffs' affidavit and this order
upon the defendants.

IT IS SO ORDERED.

Dated: August 12, 2010



JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE