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6

7 **Superior Court of the State of California**
8 **County of San Francisco**

9 **People of the State of**
10 **California,**

11 Plaintiff,

12 vs.

13 **Michael Smith,**

14 Defendant.

Court No.: 16013940

Challenge for Cause
[Code of Civ. Procedure, § 170.1]

Date: 9-16-16
Time: 9:00 a.m.
Dept: 608

15 The trial judge, the Honorable Anne-Christine Massullo, has exhibited bias
16 and prejudice toward defense counsel, the defendant, and the defense case. Smith
17 moves for disqualification of Judge Massullo under Code of Civil Procedure
18 section 170.1 to ensure Smith's rights to a fair trial, to present a defense, and to
19 cross examine witnesses against him under the Fifth, Sixth, and Fourteenth
20 Amendments.
21

22 **Points and Authorities**

23 **1. Smith's motion for disqualification is timely.**

24 A party must raise a motion for a judge's disqualification under section 170.1
25 "at the earliest reasonable opportunity after the party becomes aware of the
26 disqualifying facts."¹ The obligation to raise a disqualification motion "applies . . .

27
28 ¹ *North Beverly Park Homeowners Ass'n v. Bisno* (2007) 147 Cal.App.4th 762, 769.

1 when the facts constituting the disqualification are discovered *before a case is*
2 *submitted for decision.*"²

3 Here, Smith has discovered evidence of Judge Massullo's bias during the
4 arguments and rulings of *in limine* motions, and before jury selection. No
5 evidence has been presented to the jury. The case has not been submitted for
6 decision. Under section 170.1, Smith's motion for disqualification of Judge
7 Massullo is timely.

8 **2. Disqualification is proper because Judge Massullo has**
9 **exhibited bias and prejudice toward defense counsel.**

10 The California Judicial Code of Ethics [hereafter "The Code"] — as well as
11 statutory law — compels Judge Massullo's disqualification in this case.

12 The Code sets forth six core canons, establishes and governs standards for the
13 conduct of judges throughout the state. The Code is based on "the precepts that
14 judges, individually and collectively, must respect and honor the judicial office as
15 a public trust and strive to enhance and maintain confidence in our legal
16 system."³

17 As a result of Proposition 190, enacted by legislative referendum on November
18 8, 1994, the provisions of the code are mandatory and binding on all judges in
19 California.⁴ Judges can be censured or removed from office for both willful
20 misconduct and prejudicial misconduct. While willful misconduct involves bad
21 faith, prejudicial misconduct is "conduct with a judges undertakes in good faith
22 but which nevertheless would appear to an objective observer to be not only
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24

25 ² *Church of Scientology v. Wollersheim* (1996) 42 Cal.App.4th 628, 655-56.

26 ³ California Code of Judicial Ethics (2001) (amended by the Supreme Court of
27 California effective December 13, 2000).

28 ⁴ See California Constitution, Art VI, §18(m) stating that "[t]he Supreme Court
shall make rules for the conduct of judges."

1 unjudicial conduct but conduct prejudicial to the public esteem for the judicial
2 office.”⁵

3 This Code is reinforced by section 170.1 of the Code of Civil Procedure. It
4 provides that “[b]ias or prejudice toward a lawyer in the proceeding may be
5 grounds for disqualification.”⁶ Section 170.1 further provides that “[a] judge *shall*
6 *be disqualified* if . . . [a] person aware of the facts might reasonably entertain a
7 doubt that the judge would be able to be impartial.”⁷

8 The standard for disqualification is “not limited to actual bias”⁸ and includes
9 potential bias or prejudice. Potential bias or prejudice must be “clearly be
10 established by an objective standard.”⁹ Bias or prejudice consists of a “mental
11 attitude or disposition of the judge towards a party to the litigation.”¹⁰

12 Here, as shown in the attached Declaration of Counsel, Judge Massullo has
13 violated several canons by showing bias toward the defense and questioning
14 counsel’s integrity, while at the same time showing leniency towards the
15 prosecution.¹¹ More than *potential* bias, the trial court has exhibited *actual* bias
16 and prejudice against the defense, hallmarks that continuing trial before her

17 _____
18 ⁵ *Broadman v. Commission on Judicial Performance* (1988) 18 Cal.4th 1079, 1092
(citations omitted.).

19 ⁶ Code Civ. Proc., § 170.1(6)(B).

20 ⁷ Code Civ. Proc., § 6(A)(iii) [emphasis added].

21 ⁸ *Christie v. City of El Centro* (2006) 135 Cal.App.4th 767, 776.

22 ⁹ *People v. Chatman* (2006) 38 Cal.4th 344, 363.

23 ¹⁰ *Pacific Etc. Conference of United Methodist Church v. Superior Court* (1978)
24 82 Cal.App.3^d 72, 86, citing *Evans v. Superior Court* (1930) 107 Cal.App. 372,
380.

25 ¹¹ See Canon 2(A) “A judge shall respect and comply with the law and shall act at
26 all times in a manner that promotes public confidence in the integrity and
impartiality of the judiciary; Advisory Committee Commentary to Canon One
27 (“The integrity and independence of judges depend in turn upon their acting
without fear or favor.”); Canon 3 (B)(2) (“A judge shall be faithful to the law
28 regardless of partisan interests, public clamor, or fear of criticism, and shall
maintain professional competence in the law.”); Canon 3(b)(5) (“A judge shall
perform judicial duties without bias or prejudice.”)

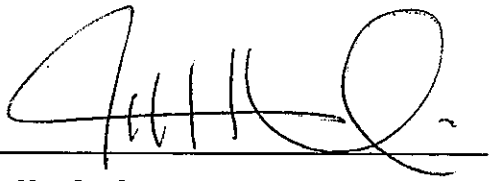
1 would result in a violation of Smith’s right to due process and a fair trial. Based
2 on the showing of counsel, Smith has made an objective showing — a person
3 aware of the trial court’s conduct would “reasonably entertain a doubt that the
4 judge would be able to be impartial.”¹²

5
6 **Conclusion**

7 The trial court’s bias impinges on Smith’s right to a fair trial, to present a
8 defense, and to confront the evidence against her under the Fifth, Sixth, and
9 Fourteenth Amendments. Smith therefore moves for the disqualification of Judge
10 Massullo.

11 Dated: September 15, 2016

Respectfully submitted,

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15 Jeff Adachi
16 San Francisco Public Defender
17 Attorney for Michael Smith

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¹² See Code Civ. Proc., § 6(A)(iii).

Declaration of Counsel

I, Jeffrey G. Adachi, declare:

1. I am a member in good standing of the California Bar. I am the Public Defender of the City and County of San Francisco, counsel of record for the defendant in this case. I have been an attorney for 30 years and have served as the elected Public Defender since 2002. Prior to that, I was the office's Chief Attorney and Deputy Public Defender for 15 years. I have handled over 3,000 cases and 150 jury trials. I have tried cases before many different judges. However, I have never had the experience of treated as unfairly as I have in the three days I have appeared before the Hon. Anne-Christine Massullo. I am extremely concerned that Smith will not receive a fair trial due to her bias towards me and my client.
2. I am informed and believe that facts exist such that an average person aware of those facts might reasonably entertain a doubt that the Hon. Anne-Christine Massullo would be able to be impartial towards myself and my client. I am informed and believe that Judge Massullo is biased against the defense in this case — holding the parties to different standards because of her bias in favor of the prosecution and state's witnesses, BART officers; and has questioned my personal integrity as an officer of the court. As such, Smith is receiving an unfair trial before Judge Massullo.
3. I was assigned to Judge Massullo on September 9 for trial. On September 12, the parties appeared before Judge Massullo. In just three court days, Judge Massullo has expressed her bias against the defense on numerous occasions through her statements, actions and rulings.
4. Specifically, Judge Massullo:

- 1 a. Questioned the integrity of defense counsel — refusing to accept
2 counsel’s words as an officer of the court and percipient witness to the
3 recent hospitalization of my client;
- 4 b. In ruling on evidentiary matters, has held the defense to a higher
5 standard — finding defense motions untimely and in violation of local
6 rules, while entertaining the prosecution’s motions without question.
- 7 c. Has denied Michael Smith to right to present a defense. She has
8 excluded a crucial defense expert and two important percipient
9 witnesses, thus restricting his right to rebut the prosecution evidence
10 and to present an affirmative defense. Over defense objection, the
11 prosecution will call a use of force expert (Edward Flosi) to explain the
12 reasonableness of the BART officers’ actions (discovered to defense days
13 before trial began). Now Flosi’s testimony ruled admissible, the defense
14 expert (Ken Williams) was secured during *in limine* rulings; but without
15 assessing materiality, Judge Massullo excluded the defense expert as
16 untimely. Dr. Laura Gottlieb and Kathleen Saunders, who witnessed the
17 events in the BART train involving Rodriguez which tends to disprove
18 the prosecution’s theory and provides context for Mr. Smith’s mental
19 state during his encounter with police;
- 20 d. Has arbitrarily denied counsel the right to appear for Smith under Penal
21 Code section 977, despite his consent and identification not being at
22 issue — particularly, in light of Smith’s recent hospitalization, this order
23 is capricious;
- 24 e. Judge Massullo’s bias is finally evident in her repeated warnings that
25 counsel cannot refer to “Oscar Grant,” or make this trial about the Black
26 Lives Matter movement; and
- 27 f. Finally, Judge Massullo’s bias is demonstrated by her attitude, her
28 voice, and physical reaction to defense counsel argument. This

1 demonstrates judicial misconduct, as it is conduct unbecoming of a
2 neutral arbitrator.

3 **A. By questioning the integrity of counsel, Judge Massullo has**
4 **demonstrated actual bias against the defense.**

5 Defense counsel filed a written Penal Code § 977(a) waiving defendant's
6 appearance at trial. On September 12, 2016, counsel informed the court that
7 Smith did not appear on the first day of *in limine* hearings because he had been
8 hospitalized for several days after suffering a seizure. Even after Smith appeared
9 in court the following day after being released from the hospital, the court
10 demanded that defense counsel produce proof that Smith was hospitalized.

11 On September 14, 2016, during a hearing set by the court that Smith was not
12 required to attend, the Court again insisted that defense counsel provide a letter
13 proving that Smith was hospitalized. Despite being both as an officer-of-the-court
14 and a percipient witness to the hospitalization — I provided the transportation,
15 and directly spoke with the care providers — Judge Massullo refused to accept my
16 sworn testimony regarding Smith's medical status.

17 This needless demand caused defense counsel *several hours* of distraction
18 from preparing this case, to obtain a letter to satisfy Judge Massullo and provided
19 the letter to her that afternoon.

20 **B. Holding the defense to a higher standard demonstrates Judge**
21 **Massullo's bias against defense counsel.**

22 By contrast, Judge Massullo routinely has accepted the word of the
23 prosecution, without questioning his integrity. For example, when the prosecutor
24 said that a witness was suddenly unavailable to testify because he was on
25 vacation, Judge Massullo did not request a declaration from the officer and
26 instead simply took the prosecutor's word for it. She ruled on the motion based
27 on the prosecution's late-notice of the officer's unavailability — not questioning
28 whether this eleventh-hour request for a conditional exam was timely.

1 But, when Smith's counsel attached a declaration submitted on penalty of
2 perjury, that declaration was deemed insufficient by the Judge. Counsel prepared
3 a supplemental *Pitchess* motion, explaining the need for discovery of the actual
4 complaints as the percipient witnesses' either did not recall the events, or refused
5 to speak with the defense investigator. In denying the motion for discovery,
6 Judge Massullo remarked that the motion was based on defense attorney's
7 hearsay conversations with his investigator and therefore insufficient. Thus,
8 Judge Massullo is biased against defense counsel, as evidenced by her disparate
9 treatment in analogous situations.

10 **C. Judge Massullo's bias has denied Smith the right to present a**
11 **defense.**

12 Judge Massullo allowed the testimony of a prosecution expert on use of force,
13 Edward Flosi, even though his report was offered one week after the date the case
14 was originally set for trial in violation of Penal Code section 1054.1. However,
15 when the prosecution complained that they had insufficient notice of the defense
16 expert, Ken Williams, who had just been retained and provided a report after
17 another expert bowed out of the case, the court excluded the defense expert
18 without exhausting the other sanctions available to it. Notwithstanding that this
19 is clear legal error under Penal Code section 1054.5(c),¹³ Judge Massullo refused
20 even look at the defense expert's report at all, saying "defense counsel did not
21 offer it earlier."

22 This disparate treatment and cavalier attitude towards excluding key defense
23 evidence is reflective of her bias against Smith. By contrast, Judge Massullo
24 carefully read and reviewed the report of the prosecution expert, and admitted
25 many of his opinions, but refused to weigh the materiality of the defense
26

27 ¹³ *People v. Superior Court (Mitchell)* (2010) 184 Cal.App.4th 451, 459 (court acts
28 in excess of jurisdiction if sanction of exclusion is ordered without exhausting
other remedies).

1 witness's opinions.¹⁴ Far from being an objective jurist, Judge Massullo has
2 denied Smith the right to present a defense by excluding a key defense expert
3 Williams, and eviscerating the defendant's case. There can be no other reason for
4 her failure to follow the mandates of section 1054.5(c) other than her hostility to
5 counsel and Smith.

6 In addition to excluding Smith's use of force expert, Judge Massullo ruled
7 inadmissible the testimony of several percipient defense witnesses and the
8 testimony of Michael Smith and Andrea Appleton. This case involves an incident
9 that began on a BART Train where a passenger, Gilberto Rodriguez, approached
10 Michael Smith and Andrea Appleton and said "You smell." Appleton said, "No I
11 don't smell," and asked Rodriguez not to talk to her that way. Rodriguez persisted
12 and told them to move. Michael Smith told Rodriguez not to speak to Appleton so
13 rudely and then Smith and Appleton moved to the other side of the train. At this
14 point, Rodriguez called 9-1-1 and falsely reported that Smith had tried to rob him
15 and may have been armed with a weapon. This 9-1-1 call led to Smith's encounter
16 with the police.

17 Dr. Laura Gottlieb, a UCSF physician was seated in the BART train next to
18 Smith and Appleton and saw Rodriguez say derogatory things to Smith and
19 Appleton. She gave a statement that there was no attempt to rob Rodriguez and
20 that Smith was very well-mannered and non-threatening.

21 Kathleen Saunders, a retired chemist, was at the other side of the train and
22 provided a statement that she saw Smith and Appleton walk towards the back of
23 the train and that Smith was calm and did not threaten Rodriguez.

24 Even though defense counsel provided Judge Massullo with a trial brief
25 showing that this evidence was relevant to show the defendant's state of mind,
26 the facts and circumstances known to him for purposes of judging self-defense
27

28 ¹⁴ Judge Massullo did eventually review Mr. Williams' report before excluding his
testimony, but only after defense counsel repeatedly asked her to.

1 and his belief in the need to use reasonable force, Judge Massullo ignored the law
2 and ordered that there should be no mention or evidence of what occurred in the
3 BART Train immediately prior to Mr. Smith's encounter with the BART police.
4 But Judge Massullo admitted the 9-1-1 call by Rodriguez saying he had been
5 threatened with robbery by a person who was armed.

6 Smith has the "the constitutional right to the determination of every material
7 issue,"¹⁵ but Judge Massullo's demonstrated bias shows her attempt to direct a
8 verdict for conviction. The testimony of the excluded defense witnesses is
9 imperative to the defense theory of self-defense and relevant to jury instructions,
10 specifically: (i) CALCRIM No. 2672—Resisting unlawful arrest with force, (ii)
11 CALCRIM No. 2656—Resisting peace officer, and (iii) CALCRIM No. 945—
12 Battery against peace officer. Thus, in precluding Smith and Appleton from
13 testifying as to the events that occurred on the BART Train, this denies Smith the
14 ability to present his defense and explain the events of July 29, 2016 because the
15 witnesses support the defense of self-defense and shows the officers' excessive
16 application of force.¹⁶

17 By so ruling, Judge Massullo has decided to limit the evidence to only that
18 which is favorable to the prosecution. Rather than allowing the jury to be the fact-
19 finder, the Judge is directing a verdict — to adopt solely the interpretation of the
20 evidence to suggest wrongdoing by Smith, without impeachment or the
21 opportunity to rebut.

22 **D. Judge Massullo's arbitrary rulings has demonstrated her bias**
23 **against defense counsel.**

24 Judge Massullo has also denied counsel's request to appear on behalf of Smith
25 under section 977. Section 977 is a statutory right that cannot be arbitrarily

26 ¹⁵ See *People v. White* (1980) 101 Cal.App.3d 161, 169 (error to prohibit defense
27 introduction of the attitude and jeering of a crowd in trial of assault of a police
28 officer).

¹⁶ See CALCRIM No. 2670.

1 denied. Here, there is a signed waiver; documented medical issues; and no
2 contested issue of identification. Thus, the arbitrary denial of the right to appear
3 under section 977 is a demonstrated bias against the defense.

4
5 **E. Judge Massullo's order restricting defense counsel's voir dire on**
6 **racism in the criminal justice system and implied bias demonstrates**
7 **her lack of sensitivity on these issues.**

8 Defense counsel submitted an *in limine* motion Judge Massullo to question
9 jurors on the issue of race. Defense counsel relied on a long line of cases by the
10 United States Supreme Court that held that race was proper subject of voir dire in
11 cases where the racial background of the defendant was different from witnesses
12 or the complaining witness.

13 When defense counsel's motion was heard, Judge Massullo immediately told
14 defense counsel, "I don't want any mention of Oscar Grant," referring to the 2009
15 shooting by BART police of a 22-year old African American man from Hayward.
16 When defense counsel said that he planned to ask the jurors if they were familiar
17 with the incident, Judge Massullo immediately said he could not. When defense
18 counsel also said he would ask about "Black Lives Matter," and issues of police
19 brutality, Judge Massullo told defense counsel he could not mention it. Defense
20 counsel also said he intended to ask the jurors whether any had seen the film
21 "Fruitvale Station" a film about the Oscar Grant incident, Judge Massullo said he
22 could not. Judge Massullo warned counsel, "I don't want you to psychoanalyze
23 the jury." When counsel informed the court, as it had requested in the motion,
24 that it would seek to question the jurors on implicit bias, Judge Massullo replied,
25 "Are you saying that everyone has biases? Do you really believe that?"

26 Judge Massullo's statements to counsel and prohibitions of defense counsel's
27 questioning of jurors on explicit and implicit demonstrate her lack of knowledge
28 about or sensitivity to the issue of race relations and excessive force by police in

1 our society. This case involves a young African American man who was falsely
2 accused of a crime, and because of that accusation, was confronted by police
3 officers at gun point, thrown to the ground and forcibly restrained. The officers
4 never even explained why they were stopping him or even that they had a report
5 of a man with a weapon in violation of CALCRIM 2670: Lawful Performance:
6 Officer's Duty. Three of the four officers and Mr. Rodriguez were of different
7 ethnic backgrounds from Mr. Smith and Ms. Appleton, and consequently,
8 attitudes towards police and race relations are a proper subject for voir dire.

9 Since 1998, every California Judge is required to undergo implicit bias
10 training. Since 2005, new judges are required to attend a one-week orientation
11 that includes implicit bias. (Judge Massullo was appointed in 2006, so it can be
12 assumed that she had such training.)

13 Judge Massullo's rulings are inconsistent with the Judicial Council's training
14 that judges should and must take the subject of implicit bias seriously and allow
15 attorneys opportunities to explore racial bias among jurors. As Chief Justice Tani
16 G. Cantil-Sakauye said in her State of the Judiciary speech in March of 2016,
17 "[c]ertainly, implicit bias is a factor in the national discussion about race and
18 justice. Scientists tell us that unconscious stereotypes affect beliefs, attitudes,
19 and actions and that implicit bias has been found in children as young as 6 years
20 of age."¹⁷

21 Judge Massullo's statements demonstrate that she has prejudged the case,
22 and her a lack of sensitivity to racial justice issues makes her inappropriate to sit
23 on this case.¹⁸

24
25
26 ¹⁷ Chief Justice Tani G. Cantil-Sakauye's State of the Judiciary Speech,
<http://www.courts.ca.gov/34477.htm>.

27 ¹⁸ See *e.g.*, *People v. Enriquez* (2008) 160 Cal.App.4th 230, 244 (held, recusal
28 required where judge's commented about the failures of Proposition 36 treatment
on a motion to revoke probation).

1 **F. Judge Massullo is impatient and discourteous to defense counsel**
2 **only.**

3 Finally, Judge Massullo has demonstrated that Smith cannot receive a fair
4 trial before a neutral arbitrator. Her impatience with defense counsel has been
5 discourteous, while exhibiting differential treatment to the prosecutor. Judge
6 Massullo repeatedly smiles snidely, laughs and looks at the clock whenever
7 defense counsel is speaking or arguing a point. Judge Massullo imposes time
8 requirements on defense counsel, but rarely does so with the prosecution. She
9 bends over backwards whenever the prosecution makes a request, while rarely
10 doing so when defense counsel makes a similar request.

11 For example, defense counsel asked the judge to sign a declaration for a
12 Supplemental *Pitchess* motion. Counsel delivered the motion shortening time to
13 her clerk's office at 11:45am on September 14, 2016. Counsel had informed her
14 the previous day the motion would be filed, which required her signature.
15 Counsel returned to her court at 1:30pm, where Judge Massullo had just taken
16 the bench, and was told by her clerk that the judge had not had time to review it
17 and to call back later. Counsel called at 4pm and 5pm and finally the Clerk
18 indicated that the judge would review it and sign it the next morning. Rather
19 than to calendar the motion for 1:30pm on September 14, 2016, as requested,
20 Judge Massullo set it the following day.

21 On September 14, 2016, two days before trial was to begin, the prosecution
22 sent an email to Judge Massullo's clerk, stating that his key prosecution witness,
23 Officer Velasquez, had vacation plans and could not be in court for the trial, and
24 requested a conditional examination be held. The prosecutor had never
25 mentioned the officer's vacation plans before, even though he was made aware of
26 the Officer's vacation plans on August 27, 2016. Within two and a half hours of
27 the prosecutor's requesting a conditional examination, Judge Massullo directed
28 the prosecutor to provide her with an order shortening time, which she signed

1 immediately. The court then ordered defense counsel to respond and the
2 prosecution filed its motion at 2:16pm. Defense counsel then sent the court clerk
3 an email, stating that he would file a response by 9:00am the next morning,
4 which he filed prior to 9am. When defense counsel asked the court whether she
5 had read his opposition, the court said it had not and that defense counsel had
6 not filed it in a timely manner.

7 When defense counsel told Judge Massullo that he had sent an email to her
8 clerk informing her that he would file the motion at 9:00am, Judge Massullo
9 refused to believe the defense attorney and instead asked her clerk to see if such
10 an email had been sent. This example again shows how Judge Massullo unfairly
11 scrutinizes defense counsel, but allows the prosecutor to do whatever he wishes
12 and in fact, goes out of her way to help the prosecutor.

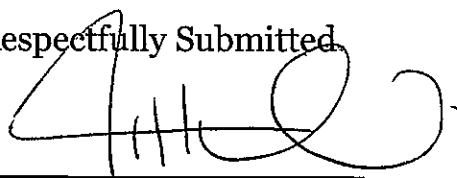
13 Judge Massullo has demonstrated, by her rulings, actions, and attitude
14 towards defense counsel and Mr. Smith, that she is biased against him and favors
15 the prosecution. Defense counsel requests that she agree to recuse herself from
16 any subsequent proceedings pursuant to section 170.1.

17
18 I declare under penalty of perjury under the laws of the State of California that
19 the foregoing is true and correct, except as to those facts stated on information
20 and belief, and as to those facts, I believe them to be true.

21
22 Executed on September 15, 2016 at San Francisco, California.

23 Dated: September 15, 2016

Respectfully Submitted,



24
25
26 Jeff Adachi
27 San Francisco Public Defender
28 Attorney for Michael Smith

Declaration of Valery Nechay

1
2 I, Valery Nechay, declare as follows:

3 1. I am a certified, law school graduate from the University of San Francisco
4 School of Law, awaiting California bar results.

5
6 2. I have worked in a public defender's office and for private criminal defense
7 attorneys during law school and after I took the bar exam. I have had the
8 opportunity to observe judges presiding over criminal and civil trials.
9

10 4. I decided to take some time after taking the bar to watch trials. I asked Mr.
11 Adachi if I could watch his upcoming trial and he agreed. I sat in the audience in
12 courtroom Department 608, during the *in limine* hearings.
13

14 5. I was shocked by the conduct and rulings of Judge Massullo that I
15 witnessed in the Michael Smith case. As I watched the proceedings, it became
16 clear to me that Judge Massullo had a bias against Mr. Adachi.
17

18 6. Judge Massullo's bias against Mr. Adachi first became evident through her
19 body language, facial expressions, tone, and verbal hostility towards him. I was
20 surprised to see a judge lack neutrality and express such blatant contempt and
21 disdain towards defense counsel.
22

23 7. Throughout the proceedings, I witnessed the following:

24 (a) Judge Massullo often gazed at the clock for long periods of time while
25 Mr. Adachi spoke and made legal arguments, while she listened attentively to the
26 prosecutor;
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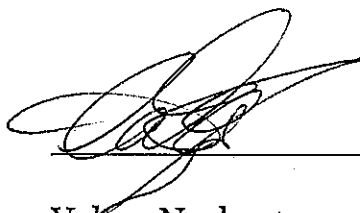
1 (b) Judge Massullo consistently scoffed and smirked during the majority of
2 Mr. Adachi's arguments, and appeared not to take his arguments seriously but
3 did not act this way when the prosecutor was speaking;

4 (c) Judge Massullo verbally chastised Mr. Adachi for seemingly minute issues
5 while never questioning significant errors and delays by the prosecution.
6

7 (d) Judge Massullo also showed bias in the manner in which she responded to
8 Mr. Adachi's objections, by simply refusing to address them or ignoring him.
9

10 I declare under penalty of perjury under the laws of the State of California that
11 the foregoing is true and correct, except as to those facts stated on information
12 and belief, and as to those facts, I believe them to be true.
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14 Executed on September 15, 2016 at San Francisco, California.

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18 Valery Nechay
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Proof of Service

I say:

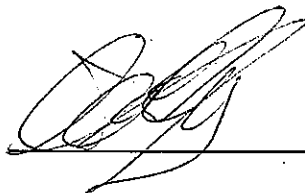
I am over eighteen years of age and not a party to the above action. My business address is 555 Seventh Street, San Francisco, California 94103.

I personally served copies of the attached on the following:

San Francisco District Attorney, 3rd Floor
850 Bryant Street
San Francisco, CA 94103
Attn: Dane Reinstedt, ADA

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

Executed on 9/16/16 in San Francisco, California.



A handwritten signature in black ink is written over a horizontal line. The signature is stylized and appears to be 'Dane Reinstedt'.