

FILED

2016 MAY 24 PM 4: 24

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY: _____

1 MARINA J BOYD, PLAINTIFF IN PRO PER
10951 NATIONAL BOULEVARD, APT 302
2 LOS ANGELES, CALIFORNIA 90064
(310) 663-4811

7
8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

12 MARINA J BOYD

14 Plaintiff(s),

15 vs.

17 LISA HART COLE and DOES 1-10

18 Defendant(s).

) COMPLAINT FOR EQUITABLE RELIEF
) AND/OR INJUNCTIVE RELIEF AND/OR
) DECLARATORY RELIEF

-) 1. Violation of 42 U.S.C. §1983
-) 2. Violation of Cal. Const. art. I, §26
-) 3. Demand for Equitable, Injunctive and
Declaratory Relief (28 U.S.C §2201(a)
-) 4. Further Relief (28 U.S.C§ 2202)

CV16-3631-R (AGR)

Case No.: _____
(to be filled in by the Clerk's Office)

Jury Trial: Yes No
(check one)

23 NOW COMES MARINA J BOYD, one of the People of the United States of America
24 (herein referred to as "Plaintiff") to hereby makes this complaint against Lisa Hart Cole, Superior
25 Court Judge in the Superior Court of California, County of Los Angeles and DOES 1-10, inclusive,
26 (hereinafter collectively referred to as "DEFENDANTS").

28 I. THE PARTIE(S)

1 **The Plaintiff(s)**

2 Name MARINA J BOYD
3 Street Address 10951 NATIONAL BLVD., #302
4 City and County CITY OF LOS ANGELES, COUNTY OF LOS ANGELES
5 State and Zip Code CALIFORNIA, 90064
6 Telephone Number 310-663-4811
7 E-mail Address _____

7 **Defendant No. 1**

8 Name LISA HART COLE, WEST DISTRICT DEPARTMENT O
9 Job or Title CALIF. SUPERIOR COURT JUDGE, COUNTY OF LOS ANGELES (if known)
10 Street Address 1725 S. MAIN STREET
11 City and County CITY OF SANTA MONICA, COUNTY OF LOS ANGELES
12 State and Zip Code CALIFORNIA 90401
13 Telephone Number 310-255-1866
14 E-mail Address _____ (if known)

14 Individual capacity Official capacity

16 **JURISDICTION AND VENUE**

17 1. This Court has jurisdiction of this matter under 28 U.S.C. § 1331 and 28 U.S.C. §
18 1343.. Federal question jurisdiction arises pursuant to 42 U.S.C. § 1983 “deprivation of due process
19 of law and “equal protection of the law” in violation of the Fourteenth Amendment of the Constitution
20 of the United States of America and the Constitution of the State of California. Venue is proper
21 pursuant to 28 U.S.C. § 1391 because all defendant are residents of the State where this district is
22 located and the event and omissions giving rise to this complaint occurred herein.

24 **FACTUAL ALLEGATIONS RELATED TO EACH CAUSE OF ACTION**

25 2. On May 12, 2012, Plaintiff Marina J Boyd filed a Complaint for Damages against
26 CitiMortgage, Inc. and Skyway Realty (later dismissed) for the disposal and destruction of Plaintiffs
27 Personal Property. The Complaint was assigned Case #SC117126.

1 **3.** The complaint was filed as an Unlimited Civil action in the Los Angeles Superior
2 Court, West District and was assigned to Department M, the Hon. Linda K. Lefkowitz presiding.

3 **4.** Prior to the first hearing in the matter, the case was reassigned to Hon. Bobbi Tilmon,
4 who sustained, with leave to amend, the first Demurrer in the case on October 19, 2012.

5 **5.** On or about April 12, 2013, Hon. Bobbi Tilmon sustained CitiMortgage' demurrer to
6 Plaintiffs First Amended Complaint with Leave to Amend.

7 **6.** On, 2012, Plaintiff filed a first amended complaint adding additional Plaintiffs.
8 CitiMortgage. demurred all causes of action and move to strike portions of Plaintiffs 1st Amended
9 Complaint.

10 **7.** On or about May 6, 2013, the case was transferred to the Stanley Mosk Courthouse in
11 Department 92, Hon. Amy K. Hogue presiding on May 6, 2013,

12 **8.** On or about July 2, 2013, CitiMortgage filed a demurrer the Plaintiffs Second
13 Amended Complaint and Motion to Strike portions of Plaintiffs complaint.

14 **9.** The hearing on CitiMortgage demurrer and motion to strike Plaintiffs 2nd Amended
15 Complaint was scheduled for hearing on December 4, 2013, however, on December 4, 2013, on the
16 Courts own motion, transferred the case back to West District Courthouse in Santa Monica to
17 Independent Calendar Court and assigned to Department O, Hon. Lisa Hart Cole presiding prior to
18 the hearing on the Demurrer to Plaintiffs Second Amended Complaint and Motion to Strike.

19 **10.** On or about April 18, 2014, the Hon. Lisa Hart Cole denied Plaintiff's Ex-parte motion
20 for order granting Leave to file a third amended complaint, without any finding of fact or foundation
21 of law.

22 **11.** On or about June 20, 2014, Hon. Lisa Hart Cole sustained CitiMortgages' demurrer
23 with 20 days leave to amend (except intentional infliction of emotional distress which was sustained
24 without leave to amend), but stated that Plaintiff sufficiently plead a violation of California Civil
25 Code §1983as part of the 2nd Cause of Action.

26 **12.** On July 17, 2014, Plaintiff filed a Third Amended Complaint.

27 **13.** On July18, 2014, CitiMortgage filed an ex-parte Motion to Dismiss Plaintiffs Second
28 Amended Complaint with Prejudice based on a failure to file an amended complaint within 10 days;

1 HOWEVER the Court had ordered that the amended complaint be filed within 20 days. Hon. Lisa
2 Hart Cole's courtroom was dark on July 18, 2014, and Hon. Alan Goodman of Department P
3 continued the hearing to July 29, 2014.

4 **14.** On July 23, 2014, Plaintiff re-filed a Motion for Order Granting Leave to Amend and
5 Proposed Third Amended Complaint seeking to add Plaintiffs Anita Faye Boyd and Alexis Boyd-
6 Holling and Defendant Mark Edward Alston in addition to Causes of Action for Conversion,
7 Racketeering, violation of the Unruh Act, and Intentional Infliction of Emotional Distress citing new
8 facts which had been discovered since the 2nd Amended Complaint which the court denied Leave to
9 Amend that cause of action.

10 **15.** On or about July 29, 2014, Judge Lisa Hart Cole refused to deny CitiMortgage
11 erroneous Motion to Dismiss, even though at the time of hearing, a Third Amended Complaint had
12 been timely filed by Plaintiff, and instead, continued the hearing on CitiMortgage's' erroneous
13 Motion to Dismiss Plaintiffs 2nd Amended Complaint to coincide with the hearing date for Plaintiffs
14 Motion for Order Granting Leave to Amend, on October 29, 2014.

15 **16.** On or about October 28, 2014, Department O issued a tentative ruling GRANTING
16 CitiMortgage improper motion to Dismiss Plaintiffs complaint with Prejudice and DENYING
17 Plaintiffs Motion for Order Granting Leave to Amend based on a Procedural defect WHICH was not
18 raised in CitiMortgage Opposition to Plaintiffs Motion (Plaintiffs Motion is Denied based on a failure
19 to comply with C.R.C. 3.1324).

20 **17.** On October 29, 2014, at the hearing, with court reporter present Plaintiff presented to
21 the court a document with the missing procedural elements along with a supplemental opposition to
22 CitiMortgage Motion to Dismiss Plaintiffs Second Amended Complaint.

23 **18.** Again, Hon. Lisa Hart Cole did not dismiss CitiMortgage Motion to Dismiss Plaintiffs
24 2nd Amended Complaint with Prejudice, but instead continued the hearing on Plaintiffs Motion for
25 Order Granting Leave to Amend to November 19, 2014 and granted CitiMortgage opportunity to
26 reply to Plaintiffs Declaration pursuant to C.R.C 3.1324 even though they did not raise this issue in
27 their opposition to Plaintiffs Motion for Order Granting Leave to Amend.

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1 **19.** On November 19, 2014, with court reporter present, Hon. Lisa Hart Cole GRANTED
2 Plaintiffs Motion for Order Granting Leave to Amend with the exception of the Cause of Action for
3 Intentional Infliction of Emotional Distress, which she directed Plaintiff to remove that cause of action
4 and file a 3rd Amended Complaint within five days.

5 **20.** On November 19, 2014, Plaintiff removed the Cause of Action for Intentional
6 Infliction of Emotional Distress as order and Filed a Verified Third Amended Complaint signed by
7 all Plaintiffs Marina J Boyd, Anita Faye Boyd and Alexis Boyd-Holling.

8 **21.** On December 22, 2014, CitiMortgage, Inc. removed the case to Federal Court based
9 on Federal Question where it was assigned to Hon. Fernando Olguin for general purposes and Hon.
10 John McDermott was assigned as Magistrate Judge in the proceedings

11 **22.** On June 17, 2015, the Federal Court Dismissed the Cause of Action for Racketeering
12 and remanded the remaining causes of action to LA Superior Court. The case was returned to
13 Department O, Hon. Lisa Hart Cole Presiding, where it remains at the time of this complaint.

14 **23.** On or about June 30, 2015, Department O sent ex-parte communication to counsel for
15 CitiMortgage regarding Case Management orders, ordering them to give notice to Plaintiff Marina J
16 Boyd.

17 **24.** On July 14, 2015, Plaintiff filed a Request for Entry of Default as to CitiMortgage,
18 Inc. for failure to file a responsive pleading to Plaintiffs Third Amended Complaint.

19 **25.** On July 20, 2015, CitiMortgage, Inc. filed a demurrer to Plaintiffs' Fourth Amended
20 Complaint and Motion to Strike Portions of Plaintiffs Fourth Amended Complaint, namely
21 CitiMortgage sought to strike additional Plaintiffs Anita Faye Boyd and Alexis Boyd-Holling stating
22 that "Judge Lisa Hart Cole had never ruled on that portion of Plaintiffs Motion for Order Granting
23 Leave to Amend.

24 **26.** CitiMortgage provided no authorities for making such a declaration in their motion
25 and there was no such mention findings in Judge Lisa Hart Cole's November 19, 2014 order which
26 supported this claim. In fact, Judge Lisa Hart Cole's did give specific direction to Plaintiff regarding
27 what revisions needed to be made to the "proposed" Third Amended Complaint prior to being adopted
28

1 (Judge Lisa Hart Cole ordered Plaintiff to remove the Cause of Action for Intentional Infliction of
2 Emotional Distress).

3 **27.** On August 4, 2015, Judge Hart Cole vacated Plaintiffs Entry of Default and ordered
4 Plaintiff to file a copy of the Fourth Amended Complaint which was filed in Federal Court within
5 five days.

6 **28.** On August 6, 2015, Plaintiff filed a Motion to Compel Further Responses to Request
7 for Production of Documents Set One which was served on March 13, 2014, and which blanket
8 objections were served in response on June 9, 2013, and Responses served on September 18, April
9 23 and may 30, 2015 respectively and Request for Production of Documents [Set Two] served
10 February 23, 2015, and of which objections were served in response on March 30, 2015 and demand
11 for sanctions. The Motion was set for hearing on February 19, 2016.

12 **29.** On August 19, 2015, the Court held a hearing on CitiMortgage Demurrer and Motion
13 to Strike. Judge Lisa Hart Cole sustained CitiMortgage Demurrer to Plaintiffs Cause of Action for
14 violation of California Civil Code 51, 52 The Unruh Act, Violations of Code of Civil Procedure 1174,
15 Violations of Business and Professions Code 17200.

16 **30.** Judge Lisa Hart Cole granted CitiMortgage's motion to strike Plaintiffs Anita Faye
17 Boyd and Alexis Boyd-Holling stating that she had never ruled on that portion of the Motion. The
18 Minute Order and Notice of Ruling from November 19, 2015 are in contradiction to this finding.

19 **31.** Judge Hart Cole proceeded to advise Plaintiff that practicing law without a license was
20 a misdemeanor, which Plaintiff perceived as a threat that the Judge would cause such charges to be
21 brought against Plaintiff.

22 **32.** On or about August 5, 2015 Plaintiff served a Notice of taking of Deposition of
23 CitiMortgage, Inc. employee Travis Nurse who had verified CitiMortgage discovery responses, and
24 Request for Production of Documents at the time of Deposition to take place on August 31, 2015 after
25 MONTHS of attempting to secure agreement of a date, location and other terms of Deposition for
26 Travis Nurse with CitiMortgage.

27 **33.** The notice commanded the production of Travis Nurse in Orange County offices of
28 Wolfe and Wyman, attorneys for CitiMortgage on August 31, 2015.

1 **34.** On August 26, 2015 CitiMortgage served objections to all aspects of the deposition
2 without any effort to confer and resolve issues in the Plaintiffs Notice.

3 **35.** Plaintiff, following the receipt of objections to the Deposition of Travis Nurse
4 attempted to Meet and Confer with counsel for CitiMortgage, Inc., however they ignored Plaintiffs
5 e-mails and phone calls to meet and confer until they received notice of Plaintiffs ex-parte Application
6 for Order Shortening Time for hearing to October 6, 2015 (instead of February 17 2016, and February
7 23, 2016 respectively) to hear Motion and Motion to Compel the Deposition of Travis Nurse

8 **36.** On September 3, 2015, counsel for CitiMortgage agreed to a meet and confer phone
9 conference, but during the conference, they refused to agree on a date and/or terms for the deposition
10 even though Plaintiff advised that the deposition could be taken by video conference or by Plaintiff
11 traveling to Missouri to take the deposition.

12 **37.** On September 4, 2015, the Court continued Plaintiffs Motion for Order Shortening
13 time to September 11, 2015 which was the date previously set for a settlement conference.

14 **38.** On or about September 10, 2011, Department O posted a tentative ruling denying
15 Plaintiffs UNOPPOSED Motion to Compel further responses as untimely and denying Plaintiffs
16 Motion to Compel the Deposition of Travis Nurse because he lived more than 75 miles from the
17 deposition location. The tentative ruling was silent on the issue of sanctions.

18 **39.** On September 11, 2015, in oral arguments, Plaintiff reiterated the calculations used in
19 the Motion to Compel determining its timeliness (which was based on counting 50 days, 45 days plus
20 five days because the responses were served by mail), from June 17, 2015, which was the day the
21 Court resumed jurisdiction of this case following Removal to Federal Court and subsequent Remand.

22 **40.** In addition, CitiMortgage had granted an extension IN WRITING allowing Plaintiff
23 until August 20, 2015. Plaintiff asked Judge Hart Cole very simply to explain what date she used,
24 or determined the Motion to Compel further Responses must have been filed to be timely. She
25 blatantly refused to answer the question.

26 **41.** Plaintiff further inquired to the Court about sanctions demanded in both motions and
27 Judge Hart Cole stated “well if I’m denying the motion there would be no sanctions”.

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1 **42.** Plaintiff made oral arguments based on I argued that I believed that the law allowed
2 for sanctions even if the motions were denied on merit, and that I believed I was entitled to sanctions
3 because of “CMI’s” failure to meet and confer. I advised the Court that I had begun attempting to
4 secure a date for the deposition of Travis Nurse as early as June 2015, and had also attempted to meet
5 and confer following the receipt of their objections to the deposition, before filing the motion to
6 compel.

7 **43.** At this time, Judge Hart Cole changed her reason for denying sanctions stating that
8 CitiMortgage had shown Substantial Justification; however, CitiMortgage did not submit any
9 opposition to Plaintiffs Motion pleading any justification.

10 **44.** Following the hearing on the Motions to Compel, Judge Hart Cole ask Plaintiff when
11 she would be ready for trial, and Plaintiff replied there was a lot of depositions so probably about
12 July. Judge Hart Cole responded “I’m not setting it out that far”, however, when Counsel for
13 CitiMortgage interjected that he was concerned about the 105 day rule. Judge Hart Cole asked if he
14 was going to “make such a motion” and Mr. Tozzi responded yes. Judge Hart Cole asked if it was
15 “ready to go” to which he replied it was not because “Ms. Boyd hasn’t taken all the depositions, nor
16 have we”. At this time, Judge Hart Cole stated “So then I can accommodate Ms. Boyd” and set trial
17 to commence on June 27, 2016.

18 **45.** From that date, the only deposition taken by CitiMortgage was the continuation of
19 Plaintiffs deposition from November 25, 2013, and of which Plaintiff had been available to continue
20 the deposition at almost any time since the deposition commenced.

21 **46.** On or about October 2, 2015, Plaintiff filed a Petition for Writ of Mandate with the
22 Court of Appeals which was summarily denied on or about November 12, 2015.

23 **47.** On or about November 12, 2015, Plaintiff filed a Petition for Review in the Supreme
24 Court of the State of California, but the Petition was summarily denied without comment.

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1 **FIRST STATEMENT OF CLAIM**

2 **Violation of US Constitution, Amendment XIV**

3 **Violation of 42 U.S.C. § 1983 and Cal. Const. art. I, § 26.**

4 **48.** PLAINTIFFS repeat and re-alleged each of the allegations set forth in the preceding
5 and subsequent paragraphs, and incorporate the same as though fully set forth herein.

6 **49.** On August 19, 2015, Judge Lisa Hart Cole granted CitiMortgage's Motion to Strike
7 Anita Fay Boyd and Alexis Boyd-Holling from Plaintiffs Fourth Amended Complaint after having
8 granted Plaintiff's Motion for Order Granting Leave to Amend and add Plaintiffs Anita Faye Boyd
9 and Alexis Boyd-Holling on November 19, 2014 Judge Hart Cole's ruling violated Plaintiffs right to
10 equal protection under the law by revoking, without cause, previously granted relief.

11 **50.** Plaintiff alleges that Judge Lisa Hart Cole took the aforementioned actions under color
12 of state law, with premeditation, with the specific intent to deprive Plaintiff of her constitutional
13 rights, privileges and immunities.

14 **51.** Plaintiff alleges the Los Angeles Superior Court has adopted a policy which deprived
15 Plaintiff, who is an indigent litigant, from access to Court Reporters to make a record for review and
16 as such has deprived Plaintiff of post deprivation remedy to Judge Lisa Hart Cole's improper order.

17 **52.** As a result of the actions of Judge Hart Cole, Plaintiffs has suffered irreparable damage
18 to her "property" in the form of financial loss from having to engage in expensive alternate forms of
19 discovery and denied discovery.
20

21 **SECOND STATEMENT OF CLAIM**

22 **Violation of US Constitution, Amendment XIV**

23 **Violation of 42 U.S.C. § 1983 and Cal. Const. art. I, § 26.**

24 **53.** PLAINTIFFS repeat and re-alleged each of the allegations set forth in the preceding
25 and subsequent paragraphs, and incorporate the same as though fully set forth herein.

26 **54.** Plaintiff alleges that on September 11, 2015, Judge Lisa Hart Cole denied Plaintiffs
27 unopposed Motion to Compel the Deposition of Travis Nurse without the benefit of due process and
28 fair hearing.

1 **55.** On September 11, 2015, Judge Lisa hart Cole denied Plaintiffs demand for sanctions
2 against CitiMortgage citing her denial of the Motion to Compel as grounds for her denial. When
3 Plaintiff made argument that granting the Motion was not a pre-requisite to an order of Sanctions
4 pursuant to CCP 2016, Judge Hart Cole changed her ruling to deny sanctions based on a finding of
5 “substantial justification”, and Plaintiff was not given the opportunity to submit responsive reply to
6 this argument in violation of plaintiffs rights of due process, and equal protection under the law.

7 **56.** Judge Lisa Hart Cole acted with premeditation, with the specific intent to deprive
8 Plaintiff of her constitutional rights, privileges or immunities.

9 **57.** The Los Angeles Superior Court has adopted a policy which deprived Plaintiff, who
10 is an indigent litigant, from access to Court Reporters to make a record for review and as such has
11 deprived Plaintiff of post deprivation remedy to Judge Lisa Hart Cole’s improper order.

12 **58.** As a result of the actions of Judge Hart Cole, Plaintiffs has suffered irreparable damage
13 to her “property” in the form of financial loss from having to engage in expensive alternate forms of
14 discovery and denied discovery.

15
16 **DEMAND FOR INJUNCTIVE RELIEF**

17 **59.** That the Court issues a preliminary and permanent injunction effective immediately,
18 restraining Judge Lisa Hart Cole from making any further orders in Los Angeles Superior Court Case
19 #SC117126.

20
21 **DEMAND FOR EQUITABLE RELIEF**

22 **60.** That Los Angeles Superior Court Case #SC117126 shall be referred to the
23 Assignments Unit of the Administrative Office of the Courts to be reassigned to a new Judicial officer
24 as soon as administratively feasible and that all hearings and other proceedings in Los Angeles
25 Superior Court Case #SC117126 be rescheduled at the earliest possible date to prevent, to the extent
26 possible any further delays in the proceedings,

27 **61.** That the Los Angeles Superior Court will waive fees for the services of a Court
28 Reporter for all remaining proceedings in Los Angeles Superior Court Case #SC117126.

1 **62.** Any such further relief as the Court may deem just and proper pursuant to 28 U.S.C§
2 2202.

3
4 **DEMAND FOR DECLARATORY RELIEF**

5 **63.** That Plaintiffs Anita Faye Boyd and Alexis Boyd-Holling were property added as
6 Plaintiffs pursuant to Leave of Court granted by Judge Lisa Hart Cole on November 19, 2014.

7 **64.** That Plaintiffs Anita Faye Boyd and Alexis Boyd-Holling were improperly and
8 unlawfully stricken as Plaintiffs on August 19, 2015.

9 **65.** That it was improper for Judge Lisa Hart Cole to vacated Plaintiffs Entry of Default
10 and order Plaintiff to file the substantially identical (to the Third Amended Complaint) Fourth
11 Amended Complaint providing CitiMortgage twice the statutorily allowed time to submit a
12 responsive pleading to Plaintiffs causes of action.

13 **66.** That Plaintiffs Motion to Compel Further Responses was timely filed on August 6,
14 2015 Pursuant to California Code of Civil Procedure §2031.310.

15 **67.** That Plaintiffs Motion to Compel Further Responses was timely filed on August 6,
16 2015 Pursuant to an extension granted by CitiMortgage, Inc.

17 **68.** That Plaintiff was and is entitled to sanctions against CitiMortgage Pursuant to
18 California Code of Civil Procedure §2023.030 for misuse of the discovery process.

19 **69.** That Plaintiff was and is entitled to sanctions against CitiMortgage for failure to meet
20 and confer regarding the deposition of Travis Nurse pursuant to California Code of Civil Procedure
21 §2023.020.

22 **70.** That CitiMortgage did not have before the court a properly plead opposition and that
23 their failure to make any objection or request for continuance to make such arguments in opposition,
24 constitutes a waiver of such objections.

25 **71.** That Judge Lisa Hart Cole acted intentionally, maliciously and with disregard for the
26 rights of Plaintiffs in the aforementioned rulings in violation of Plaintiffs rights to due process and
27 equal protection under the law, with the specific intent to provide litigation advantage to
28

1 CitiMortgage, to prejudice Plaintiff and to deprive Plaintiff of her constitutional rights, privileges or
2 immunities.

3 **72.** That the Los Angeles Superior Court has adopted a policy which deprived Plaintiff,
4 who is an indigent litigant, from access to Court Reporters to make a record for review and as such
5 has deprived Plaintiff of post deprivation remedy to Judge Lisa Hart Cole's improper order.

6 **73.** That, as a result of the actions of Judge Hart Cole, Plaintiffs has suffered irreparable
7 damage to her "property" in the form of financial loss resulting from having to engage in expensive
8 alternate forms of discovery, denied discovery and the burden and expense of seeking equity.

9
10 **DEMAND FOR JURY TRIAL**

11 **1.** PLAINTIFFS demand a trial by jury.
12

13 **CERTIFICATION**
14

15 By signing below, I certify to the best of my knowledge, information, and belief that this
16 complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary
17 delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a non-
18 frivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions
19 have evidentiary support or, if specifically so identified, will likely have evidentiary support after a
20 reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise
21 complies with the requirements of Rule 11.

22 Date: May 23, 2016
23

24 

25 _____
26 Marina Joy Boyd, Plaintiff
27
28