

Marina J Boyd
10951 National Blvd., #302
Los Angeles, CA 90064
310-663-4811
cbtllocator@gmail.com

November 2, 2015

Commission On Judicial Performance
455 Golden Gate Avenue, Suite 14400
San Francisco, California 94102

**Re: LA Superior Court West District
Department O – Hon. Lisa Hart Cole**

Dear Sir or Ms.

I am writing to make a formal complaint regarding what appears to me to be serious misconduct on the part of the above referenced judicial officer.

I make this complaint with abundance of caution, but after careful consideration and after having the opportunity to experience and/or observe the proceedings in many other cases, before several LA Superior Court Judges, I am convinced that the conduct of which I am complaining do not represent the fair administration of justice.

HISTORY OF JUDICIAL ASSIGNMENTS

I filed an unlimited civil case against Citimortgage, Inc. and Skyway Realty on May 18, 2012 in the West District of the Los Angeles Superior Court in Santa Monica, California. The case was initially assigned to Department M, Hon. Linda K. Lefkowitz. Prior to the first hearing in the matter, the case was reassigned to Hon. Bobbi Tilmon, then transferred to the Stanley Mosk Courthouse in Department 92, Hon. Amy K. Hogue presiding on May 6, 2013. On December 4, 2013, on the Courts own motion, the case was transferred back to West District Courthouse in Santa Monica to Independent Calendar Court and assigned to Department O, Hon. Lisa Hart Cole presiding. On December 22, 2014, Citimortgage, Inc. removed the case to Federal Court where it was assigned to Hon. Fernando Olguin for general purposes and John McDermott was assigned as Magistrate Judge in the proceedings, however on June 17, 2015, the case was remanded to LA Superior Court, Department O, Hon. Lisa Hart Cole Presiding, where it remains at the time of this complaint.

SPECIFIC ALLEGATIONS OF MISCONDUCT

I am making this complaint based on my legitimate belief that Los Angeles Superior Court Judge Lisa Hart Cole, of Department O of the West District in Santa Monica is guilty of violating Canon 3B (2) and/or, 3B (4), and/or 3B (5), and/or 3B (6), and/or 3B (7), and/or 3B (8) of the California Code of Judicial Ethics in presiding over my case #SC117126.

1. The (tentative ruling) GRANTING Citimortgage, Inc. Motion to Dismiss my Second Amended Complaint was Improper, Prejudicial and Bias (October 29, 2014)
2. The (tentative ruling) DENYING my Motion for Order Granting Leave to Amend was Improper, Prejudicial and Bias (October 29, 2014)

3. The order GRANTING Citimortgage, Inc. Motion to Strike Plaintiffs Anita Faye Boyd and Alexis Boyd-Holling was Improper (August 19, 2015)
4. The Denial of the Motion to Compel Further Responses was Improper, Prejudicial and Bias (September 11, 2015)
5. The Denial of the Motion to Compel the Deposition of Travis Nurse was Improper, Prejudicial and Bias (September 11, 2015)
6. The Denial of Sanctions of both of the above mentioned Motions was Improper, Prejudicial and Bias (September 11, 2015)

After sitting through hours of hearings in Department O since my case was assigned there in December 2013, I am confident that the conduct which is the subject of this complaint is, at a minimum, the result of bias or prejudice against me or in favor of Citimortgage, Inc., or at worst is the result of willful impropriety by Judge Hart Cole.

Citimortgage, Inc. Motion to Dismiss (July 18, 2014)

On July 18, 2014, Citimortgage, Inc. filed an Ex-Parte Motion to Dismiss my SAC because alleging I failed to file a TAC within 10 days from the June 20, 2014 hearing on their Demurrer to the SAC. I opposed this motion on the basis that the Court had ordered the TAC be filed within 20 days. This Ex-Parte was initially heard in Department P by Judge Allen Goodman because Department O was dark, however, Judge Goodman continued the case to July 29, 2014 to be heard by Department O because a copy of the minute order was not in the file.

The Court refused to properly deny this frivolous motion which was based on a ruling/order which was not made or violated by myself. Instead, Judge Hart Cole CONTINUED the hearing on this Motion to Dismiss to October 29, 2014, which was the hearing on my Motion for Order Granting Leave to Amend.

Plaintiff Marina J Boyd Motion for Order Granting Leave to Amend (October 29, 2014)

On October 28, 2014, Department O posted a tentative ruling which GRANTED Citimortgage, Inc.'s Motion to Dismiss my SAC with Prejudice and DENIED my Motion for Leave to Amend based on my not having complied with CRC 3.1324. This was NOT in Citimortgage, Inc.'s opposition to my Motion for Leave to Amend and after reviewing NUMEROUS tentative rulings on Motions for Leave to Amend (including others from this same department), I have yet to find this "MANDATORY RELIEF" (CCP 1214) DENIED on the basis of this missing CRC 3.1324 declaration, which the Court can waive at its discretion.

At the hearing on October 29, 2014 I presented to the clerk immediately upon my arrival, a CRC 3.1324 Declaration which she stamped "Received". Judge Hart Cole later deemed it filed and continued the hearing to November 19, 2014 to give Citimortgage, Inc. the opportunity to respond to my supplemental opposition to their Motion to Dismiss my SAC and ordered that I could not file any additional papers on the matter (a copy of the reporters transcript is attached).

Even a *tentative* ruling GRANTING Citimortgage, Inc.'s improper Motion to Dismiss (WHICH IS DESCRETIONARY), and DENYING my Motion for Leave to Amend. The Courts own minute order states it is error AND abuse of discretion to deny leave to amend if there is not prejudice to the Defendant, therefore to deny Leave to Amend on the basis of a missing declaration, of which its absence was never raised or argued by Citimortgage would appear to me to be wholly inappropriate, and not in accordance with the law. Judge Hart Cole never mentioned or admonished Citimortgage, Inc. on Motion to Dismiss which was presented to the court based on false facts, but instead she continued the hearing on my Motion for Leave to Amend to November 20, 2014, wherein her minute criticized me for having failed to file a TAC (which in fact I HAD done), and stated that I did not deny that I failed to file a TAC within 10 days (which of course I didn't deny because I was not required to file an TAC within 10 days). The minute

order read of extreme bias by Judge Hart Cole in her desire to criticize my actions, and ignore the actions of Citimortgage, no matter how improper.

On November 18, Department O posted a tentative ruling finally DENYING Citimortgage, Inc. Motion to Dismiss my SAC and GRANTING my Motion for Leave to Amend, with the exception of the Intentional Infliction of Emotional Distress. In oral arguments on November 19, 2015, Judge Hart Cole ordered that I remove the Cause of Action for Intentional Infliction of Emotional Distress and file a TAC within five days. Judge Hart Cole refused my request to make arguments to preserve my record on appeal as to the cause of action for Intentional Infliction of Emotional Distress. I removed that cause of action and filed the TAC later on November 19, 2014. Transcript of the proceedings is available from Nancy Brink.

Citimortgage, Inc. Demurrer and Motion to Strike portion of 4th Amended Complaint (August 19, 2015)

On August 18, 2015, Department O posted a tentative ruling on Citimortgage, Inc.'s Demurrer and Motion to Strike. In the tentative ruling, the court ordered the Cause of Action for Intentional Infliction of Emotional Distress and Plaintiffs Anita Faye Boyd and Alexis Boyd-Holling as Plaintiffs be stricken from the complaint because it was "outside of the scope of her order granting leave to amend" on November 19, 2014. In oral arguments, I advised the Court that there was nothing in the order or in the record which gave any indication that "that portion" of my Motion for Leave to Amend was not granted. I further explained that the Court had carefully specified her denial of leave to amend ONLY the Cause of Action for Intentional Infliction of Emotional Distress.

In fact, at the hearing on November 19, 2014, Judge Hart Cole refused to adopt my [PROPOSED] TAC as my TAC, but instead instructed me to remove the Cause of Action for Intentional Infliction of Emotional Distress before I filed it as the Verified TAC, there was no mention, argument or discussion about removing Plaintiffs Anita and Alexis (both of whom appeared as Plaintiffs on the [PROPOSED] TAC and TAC), and while the Judge gave SPECIFIC direction that the cause of action for IIED be removed before the TAC was filed. I can find no legal basis for Judge Hart Cole's ruling to GRANT Citimortgage, Inc.'s Motion to Strike Plaintiffs Anita and Alexis, or that somehow "she never ruled on that portion of my motion" where there is no such mention in the record. The record does not reflect Judge Hart Coles' having had any such intent to strike Plaintiffs Anita and Alexis when she GRANTED Leave to Amend on November 19, 2015.

September 4, 2015 Ex-parte Application for Order Shortening Time to Hear Discovery Motions

On August 5, 2015, I served Citimortgage, Inc. with a Notice of Deposition for Travis Nurse, the Citimortgage, Inc. employee who verified all of their discovery responses and who testified by declaration in opposition of my Motion to Compel Further Responses in US District Court. The deposition was noticed to take place on August 31, 2015 at the offices of Wolfe & Wyman, LLP in Irvine, California, but only after I made extensive effort to meet and confer with counsel for Citimortgage, Inc. to agree on terms for his deposition. On August 6, 2015, I filed a Motion to Compel Further Responses and demand for Sanctions against Citimortgage, Inc. which was scheduled to be heard on February 23, 2016. On the evening of August 26, 2015, I received objections from Citimortgage, Inc. to the deposition (and all of the documents requested at the time of deposition). Prior to serving their objections, Citimortgage, Inc. again made no effort to meet and confer to see if their issues could be resolved. Immediately following the receipt of their objections, I sent an e-mail to all three attorney of record for Citimortgage, Inc. advising them that I wished to meet and confer regarding the deposition of Travis Nurse and resolve their objections. When I had not received any response by August 28, 2015 at about 4pm, I called Cathy Granger, counsel for Citimortgage, Inc., the Receptionist stated she was not available and transferred me to her voicemail where I left a detailed voice message for her explaining that I wished to meet and confer regarding the deposition of Travis Nurse and resolve their objections. On the following Monday, August 31, 2015, I placed calls to Rik Tozzi and Bryan Balogh of Burr Foreman, both also counsel representing Citimortgage, Inc. and when neither were available to speak with me, I also left them both detailed messages advising them that I wished to meet and confer regarding the deposition of Travis Nurse and try to resolve their objections.

When, by Wednesday, September 2, 2015, none of the attorney for Citimortgage, Inc. had responded to or even acknowledged my e-mail or phone calls, I gave Ex-Parte notice of my Application for order Shortening Time to hear the pending Motion to Compel Further Responses and Demand for Sanctions and the Motion to Compel the Deposition of Travis Nurse (which was to be filed concurrently with the Application for Order Shortening Time).

On September 4, 2015, I presented the court with my Ex-parte Application and the Motion to Compel the Deposition of Travis Nurse and Demand for Sanctions. The Application was filed, but the Motion to Compel the Deposition was received, then returned and filing was rejected because the proper reservation receipt was not attached.

Judge Hart Cole continued the matter to September 11, 2015 to give Citimortgage, Inc. the opportunity to respond (which they did not request).

September 11, 2015 Ex-parte Application for Order Shortening Time to Hear Discovery Motions

On September 10, 2015, Department O posted a tentative ruling GRANTING my Application for Order Shortening Time. But instead of setting the hearing for October 6, 2015 as I had requested (allowing the opportunity for Citimortgage, Inc. to respond/oppose and allowing me the opportunity to reply), ruled that the motions would be heard on September 11, 2015. The tentative ruling also stated that my Motion to Compel Further Responses was DENIED as untimely and my Motion to Compel the Deposition of Travis Nurse was DENIED because Travis Nurse lived in O’Fallon, MO which was more than 75 miles from the location where the deposition was noticed to take place. There was no Court reporter present to record the proceedings, however, I have attached a Declaration (*See EXHIBIT V, Declaration of Marina J Boyd RE: Hearings on 9/4/15 & 9/11/15*) which lays out, in detail the manner in which oral arguments handled and the improper conduct which I am alleging against Judge Hart Cole in ultimately adopting her tentative rulings and subsequently denying my request for sanctions against Citimortgage, Inc. without requiring Citimortgage, Inc. to submit proper opposition explaining the discovery abuses I allege in my Motion to Compel Further Responses and their Failure to meet and confer regarding the deposition of Travis Nurse.

The following Exhibits on the enclosed CD are included in support of my complaint

EXHIBIT	DOCUMENT	DATE
EXHIBIT A	Motion for Leave to Amend	July 22, 2014
EXHIBIT B	Citimortgage Demurrer/Motion 2 Strike SAC - Tentative Ruling	June 20, 2014
EXHIBIT C	Citimortgage Demurrer/Motion 2 Strike SAC – Minute Order	June 20, 2014
EXHIBIT D	CitiMortgage, Inc. Ex-Parte Motion to Dismiss SAC	June 20, 2014
EXHIBIT E	Ex-Parte Motion to Dismiss SAC Minute Order – Department P	July 18, 2014
EXHIBIT F	Ex-Parte Motion to Dismiss SAC Minute Order – Department O	July 29, 2014
EXHIBIT G	Motion for Leave to Amend Tentative Ruling - October 29, 2014	October 29, 2014
EXHIBIT H	Motion for Leave to Amend Minute Order - October 29, 2014	October 29, 2014
EXHIBIT I	Reporters Transcript of Proceedings (Nancy K. Brink)	October 29, 2014
EXHIBIT J	Motion for Leave to Amend Tentative Ruling – November 19, 2014	November 19, 2014
EXHIBIT K	Motion for Leave to Amend Minute Order – November 19, 2014	November 19, 2014
EXHIBIT L	Citimortgage, Inc. Demurrer/Motion to Strike TAC Tentative Ruling	August 19, 2015
EXHIBIT M	Citimortgage, Inc. Demurrer/Motion to Strike Minute Order	August 19, 2015
EXHIBIT O	Minute Order Marina J Boyd Application for Order Shortening Time	September 4, 2015
EXHIBIT P	Tentative - Marina J Boyd Application for Order Shortening Time	September 11, 2015
EXHIBIT Q	Minute Order Marina J Boyd Application for Order Shortening Time	September 11, 2015
EXHIBIT R	Declaration of Marina J Boyd RE: Hearings on 9/4/15 & 9/11/15	October 5, 2015
EXHIBIT S	Plaintiff Writ of Mandate & Exhibits Regarding Discovery Motions	October 13, 2015

Commented [MB1]:

I have carefully reviewed the California Code of Judicial Ethics, and based on that review and the series of events which have unfolded in my case, I have eliminated any legal explanation for these events and believe, and upon my believe make this complaint that Jude Hart Cole has demonstrated Bias/appearance of bias toward a particular class (Pro Se parties), has Failed to ensure my rights as a litigant, and has engaged in On-bench abuse of authority in performance of judicial duties. Further, she has failed to require the Citimortgage attorneys (Samantha Lamm, Cathy L Granger) to maintain proper conduct similar conduct in litigating this case. In her verbal and written comments, Judge Hart Cole has engaged in speech, gestures and other conduct that is reasonably perceived as bias/prejudice towards myself as a Pro Per litigant, has failed to accord me full right to be heard according to the law and has independently investigated facts in a proceeding instead of considering only the evidence presented.

The following individuals may have knowledge of the facts alleged in this complaint.

1. Nancy Lee (Deputy Clerk)
2. P. Reynoso
3. Adam (or Aaron) Wiggins

Please let me let me know if you need additional information or if I can clarify any information for you.

Regards,



Marina J Boyd