

1 MARINA J BOYD, PLAINTIFF IN PRO PER  
2 10951 NATIONAL BOULEVARD, APT 302  
3 LOS ANGELES, CALIFORNIA 90064  
4 (310) 663-4811

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF LOS ANGELES WEST DISTRICT

10 MARINA J BOYD

11  
12 Plaintiff,

13 vs.

14 CITIMORTGAGE, INC.

15  
16 Defendants

) CASE NO. SC117126

)  
) VERIFIED STATEMENT OF  
) DISQUALIFICATION OF JUDGE  
) LISA HART COLE; SUPERVISING  
) JUDGE OF THE WEST DISTRICT  
) OF THE SUPERIOR COURT OF  
) CALIFORNIA COUNTY OF  
) LOS ANGELES, DEPARTMENT O

)  
)  
)  
) COMPLAINT FILED: May 18, 2012

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22 TO JUDGE LISA HART COLE, ALL PARTIES AND OR THEIR ATTORNIES OF  
23 RECORD:

24 Plaintiff Marina J. Boyd (herein referred to as "Plaintiff") hereby respectfully submits this  
25 Verified Statement regarding of Disqualification of Judge Lisa Hart Cole pursuant to Code of Civil  
26 Procedure §170.1 and 170.3, detailing facts which support a pattern of conduct which, in applying

1 the circumstantial bias test, demonstrates a likelihood of actual bias against Plaintiff requiring  
2 Judge Cole be disqualified from proceeding in this case.

3  
4 **I. GROUNDS FOR DISQUALIFICATION**

5 Plaintiff submits this statement of disqualification of Judge Lisa Hart Cole based on  
6 California Code of Civil Procedure §170.1(a) (6) (A) (iii), which states that “A judge shall be  
7 disqualified if.....”A person aware of the facts might reasonably entertain a doubt that the judge  
8 would be able to be impartial”. The Code of Judicial Ethics defines impartial as the “absence of  
9 bias or prejudice in favor of, or against, particular parties or classes of parties, as well as  
10 maintenance of an open mind in considering issues that may come before a judge.

11 The question of what constitutes .... bias varies according the case and can be  
12 circumstantial. (*See People v. Nesler (1997) 16 Cal.4th 561, 580 [66 Cal.Rptr.2d 454, 941 P.2d*  
13 *87].*) Further, courts have held that “bias exists if there is a substantial likelihood that a [ruling]  
14 was based on an improper ..... influence, rather than on the evidence”. (*Hamilton, supra, 20*  
15 *Cal.4th at p. 294; People v. Honeycutt (1977) 20 Cal.3d 150, 157–158 [141 Cal.Rptr. 698, 570*  
16 *P.2d 1050]; People v. Barton (1995) 37 Cal.App.4th 709, 719 [43 Cal.Rptr.2d 671].*)

17 Under the circumstantial bias test the court must examine the totality of the circumstances  
18 ..... to determine whether a substantial likelihood of actual bias ..... arose. (*Carpenter, supra, at*  
19 *p. 654; People v. Loker, supra, at p. 747*). In this case, when considering “the totality of the  
20 circumstances”, “a substantial likelihood of actual bias” against Plaintiff, by Judge Cole cannot be  
21 ignored. (*People v. Cissna, 182 Cal. App. 4th 475 (Cal. App. 4th Dist. 2010)*).

22 A judge's behavior must constantly reaffirm fitness for the serious responsibilities of  
23 judicial office. (*Geiler, supra, 10 Cal.3d at p. 281.*) *Furey v. Commission on Judicial*  
24 *Performance, 43 Cal. 3d 1297 (Cal. 1987)* and Plaintiff submits the below facts, with full  
25 knowledge and understanding that a “A judicial decision later determined to be incorrect legally  
26 is not *itself* a violation of this code, but with the overriding support of the California Code of  
27 Judicial Ethics, Constitutions of the State of California and the Constitution of the Unites States

1 of America which have held intolerable, the failure to provide all people equal protection of our  
2 laws. Stated succinctly, "Disqualification should occur if there is actual bias. Disqualification may  
3 also be necessary if a situation exists under which human experience teaches that the probability  
4 of actual bias is too high to be constitutionally tolerable." (*Hackethal v. California Medical Assn.*  
5 *(1982) 138 Cal. App. 3d 435, 443 [187 Cal. Rptr. 811].*) (*Gai v. City of Selma, 68 Cal. App. 4th*  
6 *213 (Cal. App. 5th Dist. 1998)*)

7 The foregoing demonstrated pattern of conduct clearly supports a finding judicial  
8 advocacy in favor of CitiMortgage, requiring disqualification and I request such disqualification  
9 and hereby object to all hearings in this case before Judge Lisa Cole held after Plaintiffs request  
10 for her recusal including the hearing held on May 25, 2016 and the hearing scheduled for July 28,  
11 2016.

12  
13 **II. DISQUALIFYING CONDUCT OF JUDGE LISA HART COLE**  
14 **DEMONSTRATING BIAS WHICH IS PREJUDICIAL TO PLAINTIFF**

15 **a. Disqualifying Bias Related to Plaintiffs Motion for Order Granting Leave to Amend**

16 On or about April 18, 2014, I brought an Ex-Parte Motion for Order Granting Leave to  
17 Amend and a Proposed Third Amended Complaint. Judge Lisa Hart Cole denied the ex-parte  
18 motion, without any finding of fact or foundation of law, which of course is permitted, however it  
19 should be noted that this motion was brought ex-parte on the request and agreement of counsel for  
20 Defendant Samantha Lamm. The Court's refusal to consider this motion was the first step in a  
21 series of decision's which would significantly protract this litigation and would expose me to  
22 repeated attempts by Judge Cole to covertly sabotage my case against CitiMortgage.

23 On or about June 20, 2014, Hon. Lisa Hart Cole sustained, with 20 days leave to amend,  
24 CitiMortgages' demurrer to my 2<sup>nd</sup> Amended Complaint (which had been pending since its filing  
25 in July of 2013). During the June 20, 2014 hearing on the demurrer, I asked Judge Cole to adopt  
26 my Proposed Third Amended Complaint from the April 18, 2014 ex-parte and of which I had a  
27 copy for the court and counsel, however Judge Cole refused to accept my filing advising that I  
28

1 should “read her tentative carefully” and submit file my 3rd Amended Complaint within 20 days  
2 because this would be my “last opportunity to get it right”.<sup>1</sup> Given that it was exceedingly clear  
3 that the Complaint could be amended, any suggestion that such a limit on amendments was  
4 appropriate in the interest of “judicial economy” or would be belied by the many previous and  
5 subsequent delays caused by Judge Cole even when the parties were in agreement with advancing  
6 at an accelerated pace.

7 On July18, 2014, CitiMortgage filed an ex-parte Motion to Dismiss my 2nd Amended  
8 Complaint with Prejudice based on a failure to file an amended complaint within 10 days;  
9 HOWEVER Judge Cole had ordered the amended complaint be filed within 20 days. Hon. Lisa  
10 Hart Cole’s courtroom was dark on July 18, 2014, and Hon. Alan Goodman of Department P  
11 continued the hearing to July 29, 2014. Despite that fact that CitiMortgage’s Ex-Parte motion to  
12 dismiss was in conflict with Judge Hart Cole’s own order, and despite which by the July 29, 2014  
13 hearing, I had timely filed a Third Amended Complaint, Judge Cole refused to deny CitiMortgages  
14 sham Motion to Dismiss, even after she was advised in the opposition that the motion was filed on  
15 a basis which was in conflict with her own order allowing 20, and not 10 days leave to amend.  
16 Instead, Judge Cole continued CitiMortgage’s sham motion to be heard concurrently with my  
17 NOTICED Motion for Order Granting Leave to Amend which was scheduled for hearing on  
18 October 29, 2014. Since CitiMortgage’s Motion was not brought based on any order of the court  
19 and since I had since timely filed a Third Amended Complaint, the Motion Should have been  
20 denied, however Judge Cole would not deny the sham motion.

21 At the October 29, 2014 hearing, Judge Cole O had issued a tentative ruling GRANTING  
22 CitiMortgage sham Motion to Dismiss my case with Prejudice and DENIED my Motion for Order  
23 Granting Leave to Amend based on a Procedural defect WHICH was NOT raised in CitiMortgage  
24 Opposition to Plaintiffs Motion for Order Granting Leave to Amend (my Motion was denied based  
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26 <sup>1</sup> Leave to amend must be allowed where there is a reasonable possibility of successful amendment. Goodman v.  
27 Kennedy (1976) 18 Cal.3d 335, 348.

1 on a failure to comply with C.R.C. 3.1324) although she had frequently overlooked this defect in  
2 other cases when the opposition did not raise it in their opposition.

3 I was able to prepare the Declaration pursuant to C.R.C. 3.1324 overnight and present it to  
4 the Court on the morning of the hearing and was able to avoid dismissal, and STILL judge Cole  
5 refused to deny CitiMortgage's sham Motion to Dismiss, instead she gave CitiMortgage two weeks  
6 to respond to my C.R.C. 3.1324 (which they had never raised in the opposition in the first place).  
7 She also took the opportunity to FORBID me to file any further papers on the matter. Finally,  
8 Judge Cole granted my Motion for Order to Granting Leave to Amend on November 19, 2014, but  
9 never bother to admonish CitiMortgage about their shame Motion to Dismiss, nor did she order it  
10 stricken as improper although it was improperly filed without cause. During my efforts to amend  
11 my complaint, Judge Cole demonstrated her bias by repeatedly, hearing after hearing, over several  
12 months, searching beyond the pleadings, for some basis wherein she could rule against me and on  
13 behalf of CitiMortgage.

14 Statutes and authorities do not support Judge Cole's actions and Judge Cole's repeated  
15 refusals to adopt the Proposed 3<sup>rd</sup> Amended Complaint upon my request gave the appearance that  
16 she was attempting to setup the case for dismissal on a technicality and sham motion. Her actions  
17 of denying the motion on technical grounds not plead by CitiMortgage, were contrary to the  
18 statutory scheme that favors adjudication of cases on the merit<sup>2</sup>, and were part of a pattern of  
19 conduct prejudicial to me and to the fair administration of justice requiring her disqualification.  
20

### 21 **b. Disqualifying Bias related to Striking Additional Plaintiffs**

22 One of the Amendments sought in my Motion for Order Granting Leave to amend which  
23 was granted on November 19, 2014, was adding Plaintiffs Anita Faye Boyd and Alexis Boyd-  
24 Holling, both of whom lived with me and had their belongings which were in the CONDO  
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26 <sup>2</sup> *Failure to comply with the technical requirements of CRC 3.1324 is not a basis for denying a motion to amend –*  
27 *especially when the opposing party receives a copy of the proposed complaint. See Howard v. County of San Diego,*  
28 *184 Cal. App. 4th 1422, 1429 (2010) (court should not deny motion to amend based on a “technical defect” with the*  
*motion, especially when, if brought to plaintiff's attention, the defect could have been easily remedied).*

1 discarded. Neither the transcript of oral arguments or the minute order from the November 19,  
2 2014 hearing granting my motion for leave to amend reflected a denial of leave to add Plaintiffs  
3 Anita Faye Boyd and Alexis Boyd-Holling, ONLY that Judge Cole denied the my request to amend  
4 the cause of action for Intentional Infliction of Emotional Distress. In fact, she specifically  
5 instructed that, before she would adopt my proposed 3<sup>rd</sup> Amended Complaint, that specific cause  
6 of action needed to be removed, however, following removal of this case to Federal Court by  
7 CitiMortgage, Inc. on December 22, 2014 and remand to State Court on June 17, 2015,  
8 CitiMortgage filed a demurrer to my 4th Amended Complaint (which was filed in Federal Court)  
9 and a motion to strike Plaintiffs Anita Faye Boyd and Alexis Boyd-Holling on the basis that the  
10 court “never ruled on that portion of the motion”. CitiMortgage provided no authorities for making  
11 such a declaration in their motion and there was no such mention findings in Judge Lisa Hart  
12 Cole’s November 19, 2014 order which supported this claim. Despite this fact, in the August 19,  
13 2015 hearing on CitiMortgage’s Demurrer and Motion to Strike, the Court granted CitiMortgage’s  
14 motion to strike Plaintiffs Anita Faye Boyd and Alexis Boyd-Holling stating that “she had never  
15 ruled on that portion of the Motion”, contradicting her own orders. When I asked her to explain  
16 her ruling, she responded by advising me that practicing law without a license was a misdemeanor,  
17 which I quite naturally perceived as a threat that the Judge would cause such charges to be brought  
18 against me. To this day, I find no basis in law which made this statement relevant to the  
19 proceedings or the issue which I was seeking explanation.

20  
21 **c. Disqualifying Bias related to ruling on Discovery Motions (September 11, 2015)**

22 **1. Motions to Compel Further Responses**

23 On August 6, 2015, I filed a Motion to Compel Further Responses to Request for  
24 Production of Documents Set One which was served on March 13, 2014, and which blanket  
25 objections were served in response on June 9, 2013, and Responses served on September 18, April  
26 23 and May 30, 2015 respectively and Request for Production of Documents [Set Two] served  
27

1 February 23, 2015, and of which objections were served in response on March 30, 2015 and  
2 demand for sanctions. The Motion was initially set for hearing on February 23, 2016.

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

5 On or about September 11, 2011, Department O adopted its tentative ruling denying my  
6 Motion to Compel Further Responses despite the fact that CitiMortgage submitted no responsive  
7 pleading providing an alternate statutory time when the motion would have been due, and despite  
8 the fact that CitiMortgage had agreed in writing to extend the date to August 20, 2015 (as was  
9 properly plead in my motion).

10 Judge Cole disregarded my argument regarding the deadline for bringing the motion (  
11 (which was based on counting 50 days, 45 days plus five days because the responses were served  
12 by mail, from June 17, 2015, which was the day the Court resumed jurisdiction of this case  
13 following Removal to Federal Court and subsequent Remand) and when I asked Judge Hart Cole  
14 very simply to explain what date she used, to determined when the Motion to Compel Further  
15 Responses must have been filed to be timely, she blatantly refused to answer the question.

16 I then asked the Court for a ruling on my demand for Sanctions, to which Judge Hart Cole  
17 replied “well if I’m denying the motion there would be no sanctions”. I argued that I believe that  
18 was contrary to statute in particular CCP 2023 because CitiMortgage had engaged in ongoing  
19 willful discovery abuses as specified in the Motion. Following my arguments, Judge Cole changed  
20 her reason for denying sanctions stating “I find that there is Substantial Justification”, however,  
21 CitiMortgage did not submit any opposition to my Motion, nor did they claim any “substantial  
22 justification” in oral arguments.

## 23 24 **2. Motion to Compel the Deposition of Travis Nurse**

25 On or about August 5, 2015 Plaintiff served a Notice of taking of Deposition of  
26 CitiMortgage, Inc. employee Travis Nurse who had verified CitiMortgage discovery responses,  
27 and Request for Production of Documents at the time of Deposition to take place on August 31,  
28

1 2015 after MONTHS of attempting to secure agreement of a date, location and other terms of  
2 Deposition for Travis Nurse with CitiMortgage.

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

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

7 Plaintiff, following the receipt of objections to the Deposition of Travis Nurse attempted  
8 to Meet and Confer with counsel for CitiMortgage, Inc., however they ignored Plaintiffs e-mails  
9 and phone calls to meet and confer until they received notice of Plaintiffs ex-parte Application for  
10 Order Shortening Time for hearing to October 6, 2015 (instead of February 17 2016, and February  
11 23, 2016 respectively) to hear Motion and Motion to Compel the Deposition of Travis Nurse

12 On September 3, 2015, counsel for CitiMortgage agreed to a meet and confer phone  
13 conference, but ONLY after receiving ex-parte notice of my Motion to Compel is Deposition on  
14 September 4, 2015. During the conference, they refused to agree on a date and/or terms for the  
15 deposition even though I advised that the deposition could be taken by video conference or I would  
16 travel to Missouri to take the deposition. Again, Judge Cole stated that she found “substantial  
17 justification” for denying sanctions for CitiMortgage’s failure to meet and confer. Again this is in  
18 conflict with CCP §2023.020.<sup>3</sup>

19 Following her denial of my Motions to Compel, Judge Hart Cole ask me when she would  
20 be ready for trial, I replied there was a lot of depositions so probably about July. Judge Hart Cole  
21 responded “I’m not setting it out that far”, however, when Counsel for CitiMortgage interjected  
22 that he was concerned about the 105 day rule. Judge Hart Cole asked if he was going to “make  
23 such a motion” and Mr. Tozzi responded yes. Judge Hart Cole asked if it was “ready to go” to  
24 which he replied it was not because “Ms. Boyd hasn’t taken all the depositions, nor have we”. At  
25

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26 <sup>3</sup> California Code of Civil Procedure §2023.020 states: Notwithstanding the outcome of the particular discovery  
27 motion, the court shall impose a monetary sanction ordering that any party or attorney who fails to confer as required  
28 pay the reasonable expenses, including attorney’s fees, incurred by anyone as a result of that conduct.



1 this time, Judge Hart Cole stated “So then I can accommodate Ms. Boyd” and set trial to commence  
2 on June 27, 2016. Again, her prejudice against me was on full display.

3  
4 **d. Disqualifying Bias Related to ruling on Motion for Summary Judgment (5/25/16)**

5 On May 25, 2016, Judge Hart Cole held a hearing on CitiMortgage, Inc. Motion for  
6 Summary Judgment. The tentative ruling which she would adopt as her order was eerily devoid  
7 of any authorities in support of her findings and also was full of statements not reflective of the  
8 evidence, contradictions of law. In addition, there is evidence that the Judge, in failing to post the  
9 tentative online, intended to deprive me of the time to prepare to address these errors in her findings  
10 on the record in during oral arguments (as I have successfully done this in the past). In this specific  
11 instance, the tentative order states that “Plaintiff did not file a proof of service”, with regard to my  
12 opposition to CitiMortgage’s MSJ, however, I did file a proof on service on May 24, 2016 directly  
13 with Ms. P. Reynoso, one of the clerks of directly in Department O, Judge Cole’s courtroom. If  
14 the tentative was prepared before I filed the POS, there is no reason it could NOT have been posted  
15 online the day before, and becomes more suspicious that it was in fact posted online AFTER the  
16 hearing.

17 The findings were made in conflict to the evidence in the Motion and the Opposition with  
18 the clear objective to rule in favor of CitiMortgage’s regardless of the evidence and the law as  
19 clearly indicated by some of the following examples taking for her ruling:

- 20  
21 1. *“Mark Alton, agent of the real estate company in charge of the eviction and disposition*  
22 *of the property, testifies he received no communication from Plaintiff from 9/22/11*  
*through 10/23/11, when the property was disposed of. See Defendant’s SSUMF No. 15*  
*and 18”.*

23 However “finding” by Judge Cole completely ignores my dispute on the SSUMF wherein  
24 I point to phone records demonstrating my request for return of the property. This ruling ignores  
25 the rules for ruling on Summary Judgment<sup>4</sup> and the rules of Evidence.

26 \_\_\_\_\_  
27 <sup>4</sup> CCP 473(c) states :In determining whether the papers show that there is no triable issue as to any material fact the  
28 court shall consider all of the evidence set forth in the papers, except that to which objections have been made and

1  
2 2. *Judge Cole's ruling continues stating "Plaintiff alleges that she repeatedly demanded*  
3 *that the property be returned to her by emails and phone calls from 10/7/11 through*  
4 *the time the property was disposed on 10/23/11. However, Defendant's evidence*  
5 *refutes Plaintiff's allegations that she demanded return of her property."*

6  
7  
8 Very simply, CitiMortgage submitted no such evidence, nor have they made any such claim  
9 disputing the phone records. This finding was simply made up to support the fabricated ruling.

10  
11 3. *The ruling continues, stating "Plaintiff's daughter testified that the movers took all the*  
12 *items they wanted and left behind those things they did not want".*

13  
14 The ruling again ignores the UNDISPUTED documentary evidence (phone records) and  
15 shockingly grants summary judgment on the HEARSAY testimony (to which I properly objected  
16 in my opposition, based on hearsay, and speculation) of my daughter who was only 12 years old  
17 at the time of the incident, wherein her deposition was not taken until approximately two and a  
18 half years after the incident and my own deposition wherein I testified that I did want the items  
19 that remained. This ruling ignores the law governing standard for granting a Summary Judgment.

20  
21 4. *The ruling continued, stating "The evidence submitted in support of this MSJ negates*  
22 *Plaintiff's assertion that the property was not abandoned and that she requested return*  
23 *of that property".*

24  
25 Again, this finding is made up to support the predetermined decision. CitiMortgage  
26 submitted no such evidence to "refute" the phone records.

27  
28 5. *The ruling continues "stating "Plaintiff attached a purported email from her sister to*  
29 *Defendant's agent, Mark Alston, dated 10/7/11 indicating that she would like to pick*  
30 *up her belongings".*

31  
32 In addition to improperly weighing evidence by referring to the e-mail is as "purported", Judge  
33 Cole ignores that no evidence was submitted to dispute the validity of the e-mail, and that the  
34 opposition papers referred to the deposition of Mark Alston, wherein he testified that this was an  
35 e-mail address that he previously used and HE DID NOT KNOW when he stopped using it.

36  
37 \_\_\_\_\_  
38 sustained by the court, and all inferences reasonably deducible from the evidence, except summary judgment may  
not be granted by the court based on inferences reasonably deducible from the evidence if contradicted by other  
inferences or evidence that raise a triable issue as to any material fact.

1 Finally, no evidence was submitted to demonstrate when the e-mail address was de-activated by  
2 the internet service provider again ignoring the law governing the granting of Summary Judgment.<sup>5</sup>

3  
4 6. *The ruling continues stating “Plaintiff alleges that Defendant violated CC §1983,*  
5 *which governs notice to former tenants and owners of personal property left behind on*  
6 *the premises after termination of the tenancy. However, Plaintiff was not a tenant and*  
7 *Defendant was not her landlord”.*

8 This is properly addressed in the law, and is addressed in my opposition which was  
9 “reportedly” read and considered. It stated “This argument fails as a matter of law because CCP  
10 §1174 states “landlord” shall be deemed to be references to the “judgment creditor” and references  
11 to the “tenant” shall be deemed to be references to the “judgment debtor” or “other occupant”.  
12 Yet, inexplicably, the Court again “recites “CMI” irrelevant language and ignores that Plaintiff  
13 cited this statute in her Memorandum of Points and Authorities in Opposition to CMI’s MSJ (See  
14 Plaintiffs MP&A in Opposition to CMI’s MSJ, Page 7, and Line 4-15). In fact, the ruling dedicates  
15 an entire paragraph to the requirements of CCP §1174 (which the Court finds not relevant to  
16 provide immunity to CitiMortgage), and her finding, but oddly states that I did not request return  
17 of my property within 15 days of vacating the premises, which also is contrary to e-mail and phone  
18 records which were submitted into evidence.<sup>3</sup>

19 7. *Judge Cole’s ruling states that “CC[P] §1174 also does not refer to or incorporate CC*  
20 *§1983. With the assumption that her intention was to state that CCP §1174 did not*  
21 *refer to or incorporate CC §1983, that also is blatantly untrue. CCP §1174 (f) states*  
22 *“The landlord shall give notice pursuant to Section 1983 of the Civil Code to any*  
23 *person (other than the tenant) reasonably believed by the landlord to be the owner of*  
24 *personal property remaining on the premises unless the procedure for surrender of*  
25 *property under Section 1965 of the Civil Code has been initiated or completed.”*

26 These type of errors are present in almost every paragraph of the ruling and are an  
27 inconsistent with Canon 3(B) (2) which requires that “A judge shall be faithful to the law . . . ,  
28 and shall maintain professional competence in the law.”

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<sup>5</sup> A court is required to “accept as true all evidence favorable to the plaintiff and assess the defendant’s evidence only to determine if it defeats the plaintiff’s submission as a matter of law.” Hecimovich v. Encinal School Parent Teacher Organization (2012) 203 Cal.App.4th 450, 468-469.

1           **e. Disqualifying Bias Related to ruling on initial Statement of Disqualification (5/26/16)**

2           On May 24, 2016, Plaintiff faxed filed a Request for Judicial Notice of the Complaint for  
3 Equity to 310-576-1399 with a copy of the my Complaint for Equity filed in US District Court  
4 against Judge Cole attached thereto. In no way was my filing the Complaint a sham or ploy to  
5 disqualify Judge Cole, as she suggested in her order striking the Statement of Disqualification, but  
6 another effort on my part to seek relief from Judge Cole’s abuses and bias against me which had  
7 persisted for many months, and which had been ignored by the Commission on Judicial  
8 Performance which was filed in November 2015.

9           On May 25, 2016, I checked in with Ms. P. Reynoso for the hearing in Department O which  
10 is part of the normal hearing procedure. Upon check in, I advised Judicial Assistant Ms. P.  
11 Reynoso that I wished to file the Request for Judicial Notice which had not been entered into the  
12 docket after my fax filing and Ms. Reynoso refused to discuss or receive the document for filing  
13 or receipt prior to the hearing.

14           Shortly thereafter, Judicial Assistant Nancy Lee called me and Counsel for CitiMortgage  
15 to the clerk’s desk and presented us with a copy of the tentative ruling on the Motion for Summary  
16 Judgment, before ever having the chance to review it, I advised Ms. Lee that I wished to file a  
17 Request for Judicial Notice and I attempted to hand it to her. She refused to discuss or receive it,  
18 and when I attempted to press the issue, she turned her back and said I would have to give it to the  
19 judge and she would decide what to do.

20           The refusal to accept or even review a document for filing prior to hearing was contrary to  
21 the procedure which was practiced in previous hearings, where, any documents presented for filing  
22 prior to a hearing was stamped “received” and given to the judge, who would read it and if she  
23 decided to consider it, it would then be stamped as “filed”.

24           The matter was called for hearing at which time I asked Judge Lisa Hart Cole to recues  
25 herself pursuant section 170.1 of the California Code of Civil Procedure and again requested that  
26 she receive my document for filing. Judge Cole stated “she was not going to be served in open  
27 court” and stated that she did not know anything about the complaint, for equity, and so she did

1 not have to recues herself and would not do so. Her refusal was without written statement, but  
2 only by dismissive and condescending remarks from the bench which were not entered in the  
3 Courts minute order on the hearing. She then adopted her tentative ruling on the Motion for  
4 Summary Judgment without allowing for further argument, vacated the final status conference and  
5 trial dates disregarding Cannon 3(E)(2)(a)<sup>6</sup> of the Code of Judicial Ethics, which require a Judge  
6 to investigate possible grounds for disqualification, even if she believes they lack foundation.

7 On May 26, 2016, Plaintiff filed a verified statement of disqualification, incorporating the  
8 Complaint for Equity as facts which give the appearance of bias, however, on June 1, 2016, Judge  
9 Hart Cole filed a boiler plate verified answer denying bias and also ordered my Statement of  
10 Disqualification stricken for insufficiency.

11 The actions taken by Judge Cole, first in refusing to investigate grounds for disqualification  
12 on May 25, 2016, then passing on the legal sufficiency of the Statement of Disqualification in  
13 violation of §170.3(c)(5)), was wholly inconsistent with her actions in the Smylie Case  
14 (SC117724), where the party was represented, wherein she consented to recusal upon his advising  
15 her of his concern about her ability to be impartial with the knowledge that he had filed a complaint  
16 with the Commission on Judicial Performance (my complaint to the Commission of Judicial  
17 Performance about Judge Cole was disclose in the Complaint for Equity).

18 As to the legislative purpose, “Statutes governing disqualification of judges for cause are  
19 intended to ensure public confidence in the judiciary and to protect the right of the litigants to a  
20 fair and impartial adjudicator”. (*Roscco Holdings Inc. v. Bank of America (App. 2 Dist. 2007) 58*  
21 *Cal.Rptr.3d 141, 149 Cal.App.4th 1353*), modified on denial of rehearing. See also, *Peracchi v.*  
22 *Superior Court*. Instead of a response that would further that objective, Judge Hart Cole responded  
23 with verified answer to Plaintiffs May 26, 2016 Statement of Disqualification, which does not  
24 rebut or explain how her actions were consistent with an impartial adjudicator, but instead is a  
25 defensive and condescending order striking the statement without the requisite examination by

26 \_\_\_\_\_  
27 <sup>6</sup> A judge shall disclose information that is reasonably relevant to the question of disqualification under Code of  
28 Civil Procedure section 170.1, even if the judge believes there is no actual basis for disqualification.

1 another judge. Her response undermines confidence in the judiciary and demonstrates a departure  
2 from a commitment to the administration of justice in favor of self-interest. It goes without saying  
3 that .....a judge.....should have known the proper method for handling a motion for  
4 disqualification. (*Spruance v. Commission on Judicial Qualifications, 13 Cal. 3d 778 (Cal.*  
5 *1975)*). Judge Cole was obligated to disqualify herself, or at least to investigate Plaintiffs claims  
6 of bias on May 25, 2016, and her failure to do so, was a violation of California Code of Judicial  
7 Ethics Canon 3(B)(5) which states, “[a] judge shall perform judicial duties without bias or  
8 prejudice” and that “[a]nyone who is an officer of the state judicial system and who performs  
9 judicial shall comply with [The Code of Judicial Ethics]”.

### 11 **III. THIS STATEMENT IS TIMELY**

12 This statement if timely filed following my receipt of notice of advancement of hearing on  
13 the Motion for New Trial indicating that Judge Hart Cole intended to rule on the motion although  
14 it would appear that she has been reassigned to a courtroom in a different district of the Los  
15 Angeles Superior Court than where this case is currently assigned.

16 On June 1, 2016, Judge Lisa Hart Cole ordered Plaintiffs May 26, 2016 statement stricken  
17 for legal insufficiency, but in doing so apparently, it appears she misunderstood the facts Plaintiff  
18 was put forth in support of disqualification, instead, mistakenly she believed the statement was  
19 based “solely” on the existence of Complaint for Equity which was incorporated by reference.  
20 Instead, it was based, in totality, on the pattern of conduct which was publicly set forth in the  
21 complaint, which are now detailed herein as PART<sup>7</sup> of the facts set forth in this statement.

### 23 **IV. CONCLUSION**

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26 <sup>7</sup> This statement also includes the additional facts in support of disqualification following Judge Lisa Hart Cole passing  
27 on the legal sufficiency of the statement in violation of CCP 170.3, and the failure to follow the law in ruling on the  
28 Motion for Summary Judgment.

1 Bias may appear if the nature of the misconduct and the surrounding circumstances suggest  
2 it is substantially likely. (*Nesler, supra, at pp. 578–579; Carpenter, supra, 9 Cal.4th at pp. 653–*  
3 *654.*) (*People v. Ault, 33 Cal. 4th 1250 (Cal. 2004)*). Judges have a duty to make their decisions  
4 free from any bias or prejudice. California Rules of Court, Standards of Judicial Admin 10.20<sup>8</sup>,  
5 however, because it is impossible to read the mind of a jurist, the Judicial Council, has determined  
6 that when in doubt, a Judge should disqualify themselves when there is *an appearance of bias.*

7 The California Supreme Court noted: "[I]t is not the fact of prejudice that would impair the  
8 legitimacy of the judiciary's role but rather the probable fact of prejudice, i.e., the appearance of  
9 prejudice ...." (*Soldberg v. Superior Court, 19 Cal.3d 182, 193, n.l 0 (1977)*) (italics in original  
10 text, bold italics added).

11 Judge Coles ongoing exercise of one way discretion in favor of CitiMortgage, her one way  
12 interpretation of the law in favor of CitiMortgage, her inability to explain or justify her departure  
13 from prevailing authorities in her rulings, and her rude and dismissive behavior to me in hearings,  
14 and towards the sound authorities in my pleadings demonstrate her inability to be impartial and  
15 therefore, it is in the interest of justice and the integrity of the entire judicial system, that she be  
16 disqualified from presiding over this matter any further, or if Judge Cole again refuses to consent  
17 to disqualification, that Judge James K. Hahn shall examine the facts herein and she make a  
18 determination on the disqualification of Judge Lisa Hart Cole.

19  
20  
21  
22 Date: July 25, 2016



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MARINA JOY BOYD, Plaintiff in Pro Per

23  
24  
25  
26 <sup>8</sup> To preserve the integrity and impartiality of the judicial system, each judge should ensure that all orders, rulings,  
27 and decisions are based on the sound exercise of judicial discretion and the balancing of competing rights and interests  
28 and are not influenced by stereotypes or biases.

**VERIFICATION**

I, Marina J Boyd, declare:

1. I, am the Plaintiff in the Superior Court Case #SC117126, Boyd vs. CitiMortgage, Inc.
2. I have prepared the foregoing STATEMENT OF DISQUALIFICATION of JUDGE LISA HART COLE and know its contents.
3. The matters contained in this statement, are known to me personally and if called upon to testify as to such matters under oath in a court of law, I could and would do so competently.
4. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed thisn the 25th day of July, 2016 at Los Angeles, California.



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MARINA JOY BOYD  
Petitioner/Plaintiff/Petitioner



**PROOF OF SERVICE**

I, Earlie R. Jones, am a resident of Los Angeles County, state of California. I am over the age of 18 and not a party to this action. My address is 7257 Motz Avenue, Paramount, CA 90727.

On Wednesday, July 27, 2016, I served the document(s) described as:

**VERIFIED STATEMENT OF DISQUALIFICATION**


( x ) BY Mail as follows: I caused such documents to be deposited with the U.S. Postal Service with postage thereon fully prepaid at Los Angeles, California address to:

Cathy Granger  
Wolfe & Wyman, LLP  
2301 Dupont Drive, #300  
Irvine, CA 92612

Rik Tozzi & Bryan Balogh  
Burr Foreman, LLP  
420 N, 20<sup>th</sup> Street, #3400  
Birmingham, AL 35209

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on July 27<sup>th</sup>, 2016 at Los Angeles, California.

  
\_\_\_\_\_  
Signature  
  
Earlie R. Jones  
\_\_\_\_\_  
Print Name