

1 tampered with evidence, willfully misled . . . [P]laintiff and, based on these
2 fraudulent acts, procured a summary judgment against” him. Id. Plaintiff
3 further alleges that the state-court judges involved in his case issued
4 unconstitutional rulings against him in order to “punish[]” him for “raising
5 issues about the malfeasance and nonfeasance of the County” and that the
6 appellate justices “failed to disclose . . . disqualifying facts” about alleged
7 conflicts of interest. Id. at 5-8.

8 Plaintiff sues (1) the County¹; (2) the Los Angeles County Department of
9 Public Works (“DPW”); (3) the Los Angeles County Board of Supervisors; (4)
10 Gail Farber, the Director of DPW; (5) Craig Cline, a DPW engineer; (6) Arnel
11 Dulay, a DPW employee; (7) Joseph A. Farrow, Commissioner for California
12 Highway Patrol (“CHP”); (8) “Commander(s) of the CHP Division for
13 Altadena/Anges National Forest Area since 2009”; (9) Dustin Sherman, a
14 CHP officer; (10) Los Angeles County Superior Court Judge Donna Fields
15 Goldstein; (11) Los Angeles County Superior Court Judge Samantah P.
16 Jessner; (12) the law firm Hurrell Cantrall LLP; (13) Warren Williams, an
17 attorney representing Los Angeles County; (14) California Court of Appeal
18 Justice Patricia Ann Bigelow; and (15) California Court of Appeal Justice
19 Lawrence Rubin. Id. at 1-4.

20 Plaintiff alleges five causes of action: that (1) Judges Jessner and
21 Goldstein and Justices Rubin and Bigelow violated his rights under the Due
22 Process and Equal Protection clauses of the Fourteenth Amendment; (2) all
23 Defendants conspired to violate his civil rights; (3) the individual Defendants
24 violated the Racketeer Influenced and Corrupt Organizations Act (“RICO”);
25 (4) all Defendants “procured a judgment against [Plaintiff] by fraud,

26
27 ¹ Plaintiff does not list the County in the section of the Complaint for
28 listing Defendants, but he does list it in the Complaint’s caption. See
Complaint at 1.

1 including concealment of material facts”; and (5) all Defendants conspired to
2 commit fraud against Plaintiff. Complaint at 30-33. He seeks \$16 million in
3 compensatory damages; unspecified punitive damages; and orders declaring
4 that various state-court orders violated his constitutional rights and are
5 unenforceable. Id. at 33-36.

6 Because Plaintiff paid the full filing fee and is not a prisoner, the
7 Complaint is not subject to preservice screening under 28 U.S.C. §§ 1915(e)(2)
8 or 1915A. See Brown v. California, No. 11-0707, 2011 WL 5827958, at *1
9 (C.D. Cal. May 18, 2011), accepted by 2011 WL 5828717 (C.D. Cal. Nov. 18,
10 2011). The Court may, however, sua sponte dismiss a frivolous, patently
11 insubstantial complaint for lack of subject matter jurisdiction under Federal
12 Rule of Civil Procedure 12(b)(1). See Neitzke v. Williams, 490 U.S. 319, 327
13 n.6 (1989) (courts lack subject matter jurisdiction to consider “patently
14 insubstantial” complaints); see also Franklin v. Murphy, 745 F.2d 1221, 1227
15 n.6 (9th Cir. 1984) (“A paid complaint that is ‘obviously frivolous’ does not
16 confer federal subject matter jurisdiction and may be dismissed sua sponte
17 before service of process.” (citations omitted)). A frivolous complaint “lacks an
18 arguable basis either in law or in fact.” Neitzke, 490 U.S. at 325.

19 Plaintiff’s claims against the four Defendant judicial officers—Judges
20 Jessner and Goldstein and Justices Rubin and Bigelow—are subject to
21 dismissal because they are frivolous. Judicial officers are absolutely immune
22 from liability for acts performed in their judicial capacity. Mireles v. Waco,
23 502 U.S. 9, 9, 11 (1991) (per curiam). Judicial immunity bars suit even if a
24 judge is accused of acting in bad faith, maliciously, corruptly, erroneously, or
25 in excess of jurisdiction. Id. at 11-13. Judicial immunity is overcome only
26 when the judge’s actions are not taken in his or her judicial capacity or when
27 the actions, though judicial in nature, are taken in the “complete absence of all
28 jurisdiction.” Id. at 11-12. And although a judge is not absolutely immune

1 from a suit for prospective injunctive relief, see id. at *10 n.1; Pulliam v. Allen,
2 466 U.S. 522, 541-43 (1984); § 1983 itself prohibits a grant of injunctive relief
3 against any judicial officer acting in his or her judicial capacity “unless a
4 declaratory decree was violated or declaratory relief was unavailable.” § 1983;
5 see also Wolfe v. Strankman, 392 F.3d 358, 366 (9th Cir. 2004).

6 Here, it is clear that Plaintiff is challenging only acts that the four
7 Defendant judicial officers performed in their judicial capacity. Plaintiff alleges
8 that Judge Goldstein violated Plaintiff’s constitutional rights by forwarding her
9 tentative summary-judgment ruling to Judge Jessner; ruling on the defendants’
10 motion for costs; and modifying that ruling after it was on appeal. Complaint
11 at 26. He alleges that Judge Jessner violated his constitutional rights by failing
12 to consider Plaintiff’s opposition to the defendants’ motion for summary
13 judgment and instead “rul[ing] on Judge Gold[]stein’s tentative ruling”;
14 allowing a different plaintiff to proceed on similar claims in state court after
15 granting summary judgment against Plaintiff; failing to inform Plaintiff that
16 Judge Goldstein had forwarded the tentative ruling to her; refusing to hear
17 Plaintiff’s motion to set aside the summary-judgment ruling, and failing to
18 disclose that her husband was a “former Los Angeles County Deputy District
19 Attorney.” Id. at 27.

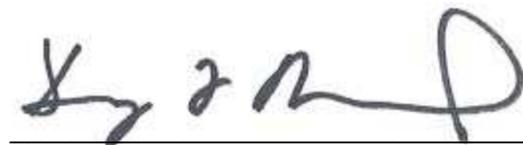
20 Plaintiff alleges that Justice Rubin, who was on the panel of justices who
21 heard Plaintiff’s appeal, violated Plaintiff’s constitutional rights by “fail[ing] to
22 disclose that he was a former employer of . . . [P]laintiff’s sister and that he
23 terminated the employment of the sister in anger over a financial dispute.” Id.
24 at 28-29. Finally, Plaintiff alleges that Judge Bigelow, who authored the
25 opinion that upheld the trial court’s summary-judgment ruling, failed to
26 disclose that she was in a long-term relationship with “a retired Los Angeles
27 City Fire Department firefighter” who was then the “Commissioner for Safety
28 of La Canada Flintridge” and thus had some association with law

1 enforcement. Id. at 7-8, 29. All of those actions were taken in the Defendant
2 judges' and justices' judicial capacity. Plaintiff, moreover, does not seek any
3 prospective injunctive relief. As such, those four Defendants are absolutely
4 immune from suit.

5 IT IS THEREFORE ORDERED that on or before May 16, 2017,
6 Plaintiff show cause in writing why his claims against Judges Jessner and
7 Goldstein and Justices Rubin and Bigelow should not be dismissed because
8 they are barred by absolute judicial immunity. Plaintiff may, in the alternative,
9 voluntarily dismiss those Defendants from the Complaint by submitting such a
10 request in writing. Plaintiff is warned that his failure to timely respond to the
11 Order may result in those Defendants being dismissed for the reasons
12 discussed above.

13 Plaintiff is also advised that there are three federal "pro se" clinics in this
14 district. The clinics offer on-site information and guidance to individuals who
15 are representing themselves (proceeding pro se) in federal civil actions. The
16 clinics are administered by nonprofit law firms, not the Court. The clinic
17 located closest to Plaintiff's address of record is in the United States
18 Courthouse at 312 N. Spring Street, Room G-19, Main Street Floor, Los
19 Angeles, CA 90012. Clinic hours are Monday, Wednesdays, and Fridays from
20 9:30 a.m. to noon and from 2 to 4 p.m. Useful information is also available on
21 the Court's website, <http://court.cacd.uscourts.gov/cacd/ProSe.nsf/>.

22
23 Dated: April 18, 2017



24
25 DOUGLAS F. McCORMICK
26 United States Magistrate Judge
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