

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

'O'

Case No.	2:18-cv-02136-RGK(Ex)	Date	March 20, 2018
Title	CYRUS SANAI v. D. JOSHUA STAUB ET AL.		

Present: The Honorable CHRISTINA A. SNYDER

Catherine Jeang

Not Present

N/A

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not Present

Not Present

Proceedings: (IN CHAMBERS) - PLAINTIFF'S SECOND EX PARTE APPLICATION FOR RECUSAL AND ALTERNATIVE MOTION FOR RECONSIDERATION (Dkt. 13, filed March 18, 2018)

I. INTRODUCTION

Plaintiff Cyrus Sanai moves the Court to reconsider its March 16, 2018 order denying the requested recusal of the Honorable R. Gary Klausner in the matter of Cyrus Sanai v. D. Joshua Staub et al, No. 2:18-cv-02136-RGK-E. Dkt. 13 ("Motion"). Sanai moves again for recusal under 28 U.S.C. section 455 and requests reconsideration under Local Rule 7-18.

The case before Judge Klausner concerns Sanai's request for declaratory judgment under 42 U.S.C. § 1983. Dkt. 1 ("Compl."). In particular, Sanai requests declaratory judgment that Sanai has the "right to attack" Los Angeles County Superior Court Judge Mark A. Borenstein's orders and his conduct in certain contempt proceedings against Sanai, on the grounds that Judge Borenstein lacks impartiality under Cal. Code Civ. P. § 170.1 et seq. See Compl.

II. DISCUSSION

Local Rule 7-18 sets forth the grounds upon which the Court may reconsider the decision on any motion:

A motion for reconsideration of the decision on any motion may be made only on the grounds of: (a) a material difference in fact or law from that presented to the Court before such decision that in the exercise of reasonable diligence could not have been known to the party moving for reconsideration

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

‘O’

Case No. 2:18-cv-02136-RGK(Ex) Date March 20, 2018

Title CYRUS SANAI v. D. JOSHUA STAUB ET AL.

at the time of such decision, or (b) the emergence of new material facts or a change of law occurring after the time of such decision, or (c) a manifest showing of a failure to consider material facts presented to the Court before such decision. No motion for reconsideration shall in any manner repeat any oral or written argument made in support of or in opposition to the original motion.

C.D. Cal. L.R. 7–18.

In support of his request for reconsideration, Sanai contends that he searched the Pacer system after the March 16, 2018 order for cases involving Judge Klausner. Motion at 5. Sanai states that “[w]hen he did so again, he accidentally put in a different search name, looking for ‘Gary Klausner’ instead of ‘Robert Gary Klausner.’ This accident proved fortuitous, because there are at least three federal proceedings in which Judge Klausner, while a Superior Court judge, was sued in [federal] court, but under the name ‘Gary Klausner.’” *Id.* Sanai attaches copies of the docket sheets from these three cases and contends that these cases demonstrate that Frederick Bennett represented Judge Klausner personally.¹ *Id.* Upon review of the docket sheets for these federal proceedings, it appears that Frederick Bennett represented Judge Klausner and numerous other judicial officers of the Los Angeles County Superior Court in three multi-defendant federal proceedings. *See* Dkt. 13 & Exs. A, B, C.

Sanai contends that the instant motion relies on different factual grounds than the original motion to disqualify Judge Klausner, so this is “arguably [] not a motion for reconsideration.” *Id.* at 5–6. Sanai further contends that even if the instant motion is a motion for reconsideration, 28 U.S.C. section 455(e) “does not permit waiver of a grounds of disqualification except under strict conditions,” and that “no waiver of the right to disqualify [Judge Klausner] can have occurred based on the relationship until full disclosure is made” regarding Judge Klausner’s relationship to Bennett. *Id.* at 6. Sanai argues that restrictions on reconsideration set forth in Local Rule 7–18 are “overridden” by 28 U.S.C. section 455(e).

¹ Sanai seeks to disqualify Judge Klausner because of Judge Klausner’s purported familiarity with Bennett, who is named as a defendant in Sanai’s underlying complaint. Dkt. 8 at 2. Bennett was Court Counsel of the Los Angeles County Superior Court from 1998 to date, and was former County Counsel who represented the Los Angeles Superior Court through 2002. *Id.*

