James Chaffee 1 63 Stoneybrook Avenue 2 San Francisco, CA 94112 Telephone: (415) 584-8999 3 Plaintiff In Propria Persona JAMES CHAFFEE 4 5 6 7 8 9 JAMES CHAFFEE, 10 11 Plaintiff, 12 v. SAN FRANCISCO LIBRARY COMMISSION; CITY AND COUNTY OF SAN FRANCISCO, and DOES 1 through 20, inclusive. 15 Defendants. 16 17 18 19 20 21 22 23 24 25 26 judge, which states: 27 28

FILED

FEB - 7 2011

RICHARD W. WIEKING

CLERK, U.S. DISTRICT COURT

OAKLAND

OAKLAND

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

MOTION FOR DISQUALIFICATION; POINTS AND AUTHORITIES; AFFIDAVIT OF PARTY

AFFIDAVIT OF PARTY IN SUPPORT THEREOF

Case No.: CV-10-4521-SBA

28 U.S.C. §144

Dept.: Courtroom 1, 4th Fl.

Judge: Honorable Saundra Brown Armstrong

Plaintiff moves to recuse Judge Saundra Brown Armstrong from participating in this case and from ruling on any and all other matters on this case.

This motion is based on this motion, the Affidavit of James Chaffee, below, and any matter properly before the judge on the matter.

GROUNDS FOR DISQUALIFICATION

The process mandated by the applicable statute is that a different judge will determine the merits of the motion. The foundation for the recusal is 28 U.S.C. Sec. 144. - Bias or prejudice of judge, which states:

"Whenever a party to any proceeding in a district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against

him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding.

"The affidavit shall state the facts and the reasons for the belief that bias or prejudice exists, and shall be filed not less than ten days before the beginning of the term at which the proceeding is to be heard, or good cause shall be shown for failure to file it within such time. A party may file only one such affidavit in any case. It shall be accompanied by a certificate of counsel of record stating that it is made in good faith."

The judge being recused may only review the affidavit to determine if it is legally sufficient. <u>United States v. Montecalvo</u> 545 F.2d 684, 685 (9th Cir. 1976). After making that determination the judge can proceed no further and the motion must be assigned to another judge for determination of its merit. <u>United States v. Sibla 624 F.2d 864, 869 (9th Cir. 1980).</u>

I, therefore, demand Judge Saundra Brown Armstrong be recused pursuant to 28 U.S.C. Sec. 144, and that this case be assigned to another judge.

AFFIDAVIT OF PLAINTIFF

- I, James Chaffee, hereby declare as follows:
- 1. I am the plaintiff in the above entitled action. I have personal knowledge of the facts and circumstances set forth below and if called I could testify competently thereto.
- 2. On January 31, Judge Armstrong issued an order denying leave to e-file in the above referenced matter, stating in pertinent part: "Plaintiff has failed to show good cause as to why leave should be granted."
- 3. By notice of the court this case has been designated as a mandatory e-filing case pursuant to Local Rule 5-4 and General Order 45. By such designation the court itself has mandated the good cause for e-filing. Once the case has been designated as an e-filing case the litigant is merely asking for leave to participate in the case. Neither Local Rule 5-4 and General Order 45 makes any mention of "good cause."
 - 4. The information available to pro se litigants on the court's website states:
 - Q. What should the motion [to e-file] say? A. There is no specific language for this motion. You are simply requesting the judge to grant permission for you to e-file on your case. You may phrase this any way you wish.

There is no requirement of a showing of "good cause" and on the contrary it is simply a question of asking permission.

5. Later in the same webpage the information states:

Q. As a pro se party, am I required to e-file?
A. No. E-filing is optional for pro se parties. It is offered as a convenience by the court.

In fact it is offered as a convenience by the rest of the court. Before Judge Armstrong it is limited to a mysterious "showing" that is never referenced or defined in any way. A true and correct copy of the ECF Registration — Pro Se Only page is attached hereto as exhibit A.

- 6. This action is so unconscionably, mind-bogglingly unreasonable that it is unthinkable without postulating the most egregious bias against pro se litigants.
- 7. What is the alternative? that the judge is prejudice against civil rights cases? Certainly equal treatment is called into question when a pro se litigant is subjected to a separate process from other litigants to participate in the case and then permission to do so is unreasonably withheld.
- 8. I believe Judge Saundra Brown Armstrong is biased against me and in favor of defendants, and that plaintiff cannot get a fair hearing or trial of any kind before her in this case.
 - 9. This certificate is made in good faith.
 - 10. Plaintiff has not exercised this right previously in this case.

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

Dated: February 4, 2011

James Chaffee, Plaintiff

ECF Registration - Pro Se Only

Last updated: 08/12/09

Attorneys please go **HERE**.

If you are representing yourself in a legal matter you are proceeding <u>pro se</u> ("on one's own behalf"). As of 04/08/2003, <u>pro se</u> parties may be allowed to e-file in their e-filing case, <u>but they must first obtain approval of the judge assigned to their case</u>.

Parties proceeding *Pro Se* must follow all procedures and policies of the court, but may not use the online registration. Instead they must use the registration form found below.

~ Again ~ Do not use the <u>attorney</u> ECF registration process, use the process on this page.

Here are the steps required for a pro se party to e-file:

- 1. The pro se party must be able to meet all the technical requirements.
- 2. The *pro se* party must abide by all e-filing and other <u>rules and orders</u> of the court.
- 3. The *pro se* party must submit a motion to the court to be allowed to e-file on their case.
- 4. ONLY AFTER the judge grants the motion AND that order appears on the docket may the *pro se* party submit the registration form located below (do not use the attorney ECF registration process). **Please follow all the instructions on the form carefully.**
- 5. The *pro se* party **must** also register for a <u>PACER</u> account in order to view the docket and retrieve available documents (the ECF login will only allow you to submit documents). You **must have both** an ECF and a PACER account in order to fully utilize the ECF system.

What happens next:

- As it states clearly on the registration form, the court must receive both the ink-signed hard-copy and an emailed "soft-copy" of the form. When the registration form is received via email AND delivery (both), the ECF Helpdesk will validate the following:
 - All mandatory fields on the form <u>must</u> be complete.
 - The *pro se* party <u>must</u> be listed in ECF on the case mentioned on the form.
 - The order granting the motion for the *pro se* party to e-file must already appear on the docket.
- The ECF Helpdesk will then process the registration and the *pro se* party will receive their e-filing password via email about 3 days after the signed registration form has been received at the court.

FAQs Regarding Pro Se E-Filing Registrations:

- Q. Why do I have to file a motion with the court to e-file?
- A. This district requires all *pro se* parties to seek approval from the court to e-file for each case they are on.
- Q. Do I have to wait for the Judge to grant my motion to e-file before submitting my registration form?
- A. **YES**, you must wait for the judge to approve you for e-filing **before** sending in your registration form. The e-filing registration form includes a <u>mandatory section</u> for the date the judge approves your motion to e-file. The ECF Helpdesk must confirm this date in order to complete the registration.
- Q. How do I file a motion to e-file?
- A. A "motion to e-file" is just a standard court motion like any other pleading and must be filed in paper. There is no court approved form

and there is no specific language.

Q. What should the motion say?

A. There is no specific language for this motion. You are simply requesting the judge to grant permission for you to e-file on your case. You may phrase this any way you wish.

Q. Can I e-file the motion to request to e-file?

A. If you do not have an ECF login already, this would be impossible. Even if you already have an ECF login from a previous case, you must still file the motion on paper.

Q. Do I have to re-register if I am on a new case?

A. No, **but** you must still motion the court to grant you permission to efile on each new case. Until your motion is granted, you are not permitted to e-file.

Q. As a pro se party, am I required to e-file?

A. No. E-filing is optional for *pro se* parties. It is offered as a convenience by the court. E-filing makes the act of filing with the court and retrieving information from the court much easier, provided you can meet the <u>technical requirements</u>.

The answers to many other questions, such as what you need to e-file, can be found on our main FAQ site **HERE**.

ECF Registration Forms

Attorneys please go HERE.

AVOID PROBLEMS AND DELAYS - READ ALL!!

- YOU MUST FOLLOW ALL THE INSTRUCTIONS ON THE FORM.
- THE FORM MUST BE 100% COMPLETE Do NOT leave any mandatory fields blank.
- YOU MUST EMAIL THE COMPLETED FORM **AND** DELIVER THE SIGNED COPY TO THE COURT AS WELL.
 YOU MUST DO BOTH!
- DO NOT FILL OUT THE FORM BY HAND.
- DO NOT USE <u>ALL CAPS</u> ON THE FORM (use standard capitalization)
- DO NOT SEND ANY OTHER ITEMS (we do not need duplicates/copies, cover letters or return envelopes).

These files need to **be saved to your computer**, then filled out AND SAVED AGAIN in the word-processing program of your choice. You will be delivering the signed form **AND** emailing the completed form (unsigned) as a .doc, .wpd or .txt attachment.

You MUST right-click on one of the file names below and select:

- > Save target as... (in Internet Explorer) or
- > Save link as... (in Netscape Navigator)

to save it locally to you computer.

ECF-REG-Prose.doc (46KB) for Microsoft Word

ECF-REG-Prose.wpd (38KB) for WordPerfect

ECF-REG-ProSe.txt (3KB) for plain text

-You can also copy and paste this text file into an email, fill it out and send it to ecfreg@cand.uscourts.gov

We can accept any of these formats, but do not email as TIFF, JPEG, PDF, scanned, etc.

To return to the ECF home page, click **HERE**.

PROOF OF SERVICE BY MAIL

Chaffee v. City and County of San Francisco, et al.

I, Linda Chaffee, am employed in the City and County of San Francisco, State of California. I am over the age of 18 and not a party to the within action, my business address is: 63 Stoney brook Avenue, San Francisco, California 94104.

On February 4, 2011, I served the foregoing document described as:

"MOTION FOR DISQUALIFICATION; POINTS AND AUTHORITIES; AFFIDAVIT OF PARTY IN SUPPORT THEREOF"

in the above entitled matter, in the U.S. District Court, Northern District of California, Case No. 10-04521 SBA

on the persons interested in said action by placing true copies thereof enclosed in sealed envelopes addressed as follows:

Wayne Snodgrass, Tara Steeley SF City Attorney City Hall, Room 234 Civic Center San Francisco, CA 94102

Said envelopes I then caused to be deposited in the United States Mail, postage prepaid.

Executed on February 4, 2011, at San Francisco, California. I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Linda Chaffee

James Chaffee 63 Stoneybrook Avenue San Francisco, CA 94112

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