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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN THE MATTER OF THE REFERRAL
OF GREGORY M. HAYNES TO THE
STANDING COMMITTEE OF THE
UNITED STATES DISTRICT COURT

No. C-10-4642 PJH
ORDER

_____ /

On August 20, 2012, respondent Gregory M. Haynes filed a revised declaration pursuant to Federal Rule of Civil Procedure 56(d), setting forth discovery that he asserts he requires in order to oppose the motion for summary judgment filed by petitioner Standing Committee of the United States District Court (“the Committee”).

Mr. Haynes seeks discovery in two categories. First, with regard to the October 8, 2009 incident outside Judge James’ courtroom, he seeks depositions of witnesses Daniel Zaheer, Dirk Larson, an “unidentified” witness, Deputy U.S. Marshal Hanson, and FPS Officer Almeraz; and documents, including “letters and drafts of statements” that the Committee sent to “witnesses.”

With regard to the deposition requests, the court made clear in the July 6, 2012 order regarding Mr. Haynes’ prior Rule 56(d) declaration that given the circumstances that led to the filing of this disciplinary proceeding in the first place, Mr. Haynes cannot be permitted to depose the witnesses to the altercation outside Judge James’ courtroom. Instead, the court will convene an evidentiary hearing at which time Mr. Haynes may question those witnesses. However, the “unidentified” witness cannot be summoned to the hearing unless he/she is identified by name.

United States District Court
For the Northern District of California

1 With regard to the document requests, the court notes that the Committee is not an
2 adverse party in the traditional sense, and that the members of the Committee are not
3 percipient witnesses. Rather, the Committee is acting in this matter as an arm of the court
4 in recommending disbarment and pursuing action to effectuate disbarment. In the absence
5 of any authority allowing document discovery from the Committee under the circumstances
6 present here, the document requests will not be permitted.

7 Second, Mr. Haynes seeks discovery to support his “claim” of “retaliation,” including
8 documents “such as letters and correspondence to and from the Committee and Judge
9 Walker,” and to and from the Committee to “the witnesses and persons it sought a
10 declaration from;” evidence of “how the [C]ommittee and Judge Walker responded to the
11 objection to the subpoena;” and documents and “information” from the Committee
12 regarding granting time to Mr. Haynes “to file the opening brief in the Landry matter and the
13 reasons for not allowing the continuance.”

14 Mr. Haynes is not a plaintiff who has asserted “claims” or causes of action – in
15 particular, a claim of “retaliation.” Rather, he is the respondent in a matter in which the
16 Committee has petitioned for an order disbaring him from practice in this court.
17 Accordingly, the court finds that the requested discovery that purports to relate to retaliation
18 against him following the incidents of alleged misconduct is not relevant to the allegations
19 that form the basis of the petition.

20 The court has the following dates available for a hearing: September 28, 2012;
21 October 16, 2012; and November 16, 2012. The witnesses identified by Mr. Haynes and
22 set forth above will be ordered to appear to testify as to the events surrounding the October
23 8, 2009 incident. The Committee and Mr. Haynes will both be able to examine each
24 witness. Mr. Haynes may also testify if he chooses, subject to cross-examination by the
25 Committee.

26 It will be the responsibility of the Committee to procure the attendance of the
27 witnesses identified by Mr. Haynes, as indicated above. Of course, the court will issue
28 orders if needed and requested by the Committee.

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The Committee and Mr. Haynes shall meet and confer regarding the three dates offered by the court, and shall advise the court as to the agreed-upon date for the hearing. Absent an agreement, the court will select the date that is best for the witnesses. If Mr. Haynes elects not to participate, the hearing will proceed in his absence.

IT IS SO ORDERED.

Dated: September 5, 2012



PHYLLIS J. HAMILTON
United States District Judge