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Plaintiff

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA

Abdul-Jalil al-Hakim, Plaintiff, vs. CSAA, Defendant,	Case No.: C8113373 Plaintiff's Opposition to Alameda County Superior Court Judge Jeff Brand Alleged Vexatious Litigant Proceeding (CCP 391(b)(3)) for Filing Challenges for Cause under CCP 170.1 and 170.3 With Memorandum of Points and Authorities Hearing: OSC Hearing Date: April 19, 2019 Time: 9:15 a.m. Location: Hayward Hall of Justice 24405 Amador Street Hayward, CA 94544 Department 511

TO JEFFERY BRAND, JUDGE OF THE ABOVE ENTITLED COURT

ABDUL-JALIL AL-HAKIM BRIEF IN OPPOSITION TO ORDER TO SHOW CAUSE WHETHER THE COURT SHOULD DECLARE ABDUL- JALIL AL-HAKIM TO BE A VEXATIOUS LITIGANT (CCP 391)

"Judicial challenges themselves are not, however, evidence a want or delay of prosecution. A party is entitled to challenge a judicial officer for cause or bias." "The challenges appear to be filed in an earnest belief that the judges of this Court ought to be disqualified from deciding this case and that each successive challenge will overcome the prior's shortcomings.""the Court hopes and encourages both parties to take this new judicial assignment as a good time to wipe the slate clean, forgive any earlier acrimony, and proceed to resolve and adjudicate the claims raised by the Complaint in normal order and good faith. Al-Hakim deserves a chance to have his claims adjudicated." "Both parties deserve the rights to fair procedure and due process guaranteed to them by law. In short, this case deserves a chance to proceed on its merits, and now is an opportune time as any to do so."
Judge Stephen Kaus, Tentative Ruling made September 11, 2018.

Judge Kaus admits to the courts acrimony and animus toward al-Hakim, and asks to wipe the slate clean and move forward in good faith as al-Hakim deserves a chance to have his claims adjudicated with *the rights to fair procedure and due process guaranteed to them by law*!

<u>Reason for Late Submission</u>

This document is submitted the last week of the hearing not out of neglect nor al-Hakim being remise, but for two reasons:

1) a. because he waited to receive the orders from the February 25, 2019 hearings from the court on the six motions pending in the CSAA case. The six orders where served March 26, 2019, well AFTER the scheduled filing of the initial opening brief in this matter of March 21, 2019, so that they would evade being included in same,

b. and the order from the February 25, 2019 hearing, unopposed, uncontested, three times failed to appear, defaulted motion to vacate the unlawful detainer/writ of execution in the Green Key case. On April 3, April 15, and April 17, 2019, al-Hakim <u>sent two faxes and emails</u> each time to the court and opposing parties requesting the order from the uncontested, defaulted motion. Thats TEN REQUESTED NOTICES and it has yet to be served even though it was unopposed and thrice defaulted for failure to appear.

2) Due to the illegal eviction from the defaulted Green Key case, al-Hakim was forced out of his home with only two days to move and was unable to take anything! Of note is the fact he left all his personal and business computers, files that are now in the custody and control of the opposition. al-Hakim has NONE of the files he had accumulated over his life of years! Green Key has total possession and control of ALL al-Hakim's possessions, Four times al-Hakim has demanded the return of EVERYTHING, ALL ITEMS LEFT IN THE HOUSE, WITHOUT ANY DAMAGE TO THEM! Green Key has NEVER responded to the demand. We are sure the items of interest are in the control of the courts partners, law enforcement!

This places an intolerable burden on al-Hakim and makes it impossible to present this document in a concise and cogent manner without the necessary documentary support. (See Reason for Late Submission, **al-Hakim Declaration at ¶¶2**)

SUMMARY

Herein is Plaintiff Abdul-Jalil al-Hakim's (Plaintiff, al-Hakim) Brief in Opposition to the THIRD Order to Show Cause in this Alleged Vexatious Litigant Proceeding CCP 391(b)(3) in six

months. The opposition is supported by the al-Hakim Declaration and Appendix attached in support of the brief.

Defendant has not met their burden to show that al-Hakim is a "vexatious litigant" Under Cal. Code of Civil Procedure section 39I(b)(2), or 391(b)(3).

This action is PURELY RETALIATORY

Judge Jeff Brand, other judges listed herein, court clerks and superior court administration, in concert with unscrupulous Federal, Sate County and local judicial, law enforcement, governmental and legal entities and agencies ("entities") have committed over 150 violations under United States and California State Constitutions against Plaintiff Abdul-Jalil al-Hakim that have been graphically detailed and documented over 40 years! (United States Constitution Amendments I, V, VI, VIII, XIV, For Violations of the Due Process Clause of the Fourteenth Amendment Under Color Of State Law; Section 1983).

This PURELY RETALIATORY, unjust, illegal act of revenge, calculated to foreclose on al-Hakim's civil rights as promised to protect those judges and these underhanded entities known and documented to have repeatedly violated the law for years and just like Brand, they have been, are and will be a defendant and witness in those expected proceedings!! **This is their collective legal defense effort to eliminate any possibility of that ever happening!**

Brand has a challenge matter still pending, has NOT issued a ruling in Green Key default, strategically delaying the order to avoid further evidence of fraud on the court and to defeat this alleged vexatious litigant action wherein the judges and courts have acted as defendants CSAA co-counsel and CSAA has acted as judges counsel and government agent/informant for 20 years!

BRANDS ACTIONS IN THIS CASE ARE INDEFENSIBLE! THUS THIS VEXATIOUS ACTION

Brand installed the motion practice schedule to evade evidence of fraud on the court with the long pending six (6) CSAA orders so they could not be presented in this action.

This vexatious motion was filed on February 28, 2019, with opening brief due March 22, 2019, and reply brief due April 5, 2019, and the hearing set for April 19, 2019. Brand finally issued the long pending six (6) orders on March 24, 2019; three days AFTER the submission due date for the opening brief.

al-Hakim waited to receive the orders BEFORE filing the opposition/reply brief to include the orders as further evidence of Brands fraud on the court and exposing THIS frivolous motion as

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his sole defense for his, the judges, and court administration continuing fraud, corruption and conspiracy.

Brand even had the hearing set for Thursday, April 18, 2019 and then changed it to Friday, April 19, 2019, both dates that Brand knows al-Hakim will NOT be able to attend due to a 40 year religious commitments know to Brand, defendants and the court, in another effort to take a default against al-Hakim. On April 3, April 15, and <u>today, April 17, 2019, al-Hakim sent two faxes and emails</u> each time to the court and opposing parties announcing the fact the court has scheduled these proceedings in furtherance of their VENDETTA Targeting al-Hakim with their Muslim Ban and requesting the hearing date be changed to a Monday or Wednesday. Thats TEN REQUESTED NOTICES FOR A CONTINUANCE and they were NOT answered. Finally, later on April 17, 2019, al-Hakim received an email from the department 511 clerk stating *"Abdul-Jalil - Emailing the department is not sufficient notice for a continuance. If you need help obtaining a continuance please feel free to seek counsel or contact the self help center. This email address is only for people seeking reservations."*. **<u>(see April 17, 2019 email from Dept 511 under Exhibit 1)</u>**

<u>This response clearly establishes their intent to take a default by design!</u> The court can not complain about the cost of litigation in al-Hakim cases when they are responsible for the constant motions to continue, when they would not address the fact THEY chose the date without any input from al-Hakim knowing that he could NOT attend and rather than make a mutual accommodation, they suggest that he seek legal aid in filing a motion to continue! A COMPLETE WASTE OF TIME AND MONEY SOLELY TO PERSECUTE AL-HAKIM AND REWARD THE COURT AND DEFENDANTS!

Brand, the judges, the court administrations, and opposing parties actions have altered the course of litigation without any authority, continuing the atmosphere of intolerable TERROR in furtherance of their corruption and agenda of hate induced persecution and entrapment, with their version of the targeted "al-Hakim Muslim Ban" **(see VENDETTA- TARGETED AL-HAKIM "CAMPAIGN OF CALUMNY DECEIT", al-Hakim Declaration at Page 7-9; and** Grand, Systemic and Endemic Corruption at Page 15-17) has irreparably and irretrievably altered the legal outcome of the proceedings herein questioned!

al-Hakim is a whistleblower being targeted in a VENDETTA for his "advocacy and activism, race, religious belief, speech, political association or privileged conduct." is being punished for:

(1) attempting to cure abuses against him in the Alameda County Superior Court, State Supreme and Appeals Courts; (2) attempting to protect his constitutional rights from corrupt, biased, incompetent judges acting in concert with unscrupulous judicial, law enforcement, governmental and legal entities illegally utilizing the full force and resources of the government in a covert criminal undercover sting operation; (3) exercising his right of free speech in making the above attempts and exposing the corruption; (4) exposing the inner workings of this covert overreaching judicial, governmental operation entailing judicial, political, corporate and law enforcement corruption; (5) the complicit inept judicial system of serious malfeasance, a complete denial of secrecy, security, and transparency that encompass anything that might threaten their cover; (6) the cover up of the judicial system; (7) the criminal justices ability to deliver injustice that prohibits their ability to defend themselves; (8) They have engaged in a total evisceration, disembowel al-Hakim's rights! (see VENDETTA- TARGETED AL-HAKIM PERSECUTION, al-Hakim Declaration at Page 9-12)

al-Hakim's actions, viewpoints, are protected speech fall under the Constitution and the duty of vigorous advocacy, where under color of law, these judicial, law enforcement, governmental and legal entities criminal corruption and persecution sought to deprive plaintiff of litigation due him contrary to the right to due process and immunity from takings without due process is a gross abuse of discretion in violation of the law that will violate plaintiff's rights guaranteed under the First, Fifth, Sixth and Fourteenth Amendment to the United States Constitution; First Clause of Section 13 of Article I of California Constitution, art. VI, § 4 1/2; California Code of Civil Procedure §§ 355, 356, 473, 475; Civ. Code, §§ 3523, 3528.)

The governmental and judicial entities and agents are blocking al-Hakim's access to their commercial VPS, All services, ALL incoming and outgoing email, websites and website traffic, for all intents and purposes, burying the businesses in an effort to censor, suppress, conceal, and shut down their exposing the corruption of the courts and others, thereby covering up their criminal acts!

They commandeered and absconded with al-Hakim's ENTIRE SERVER destroying ALL the businesses, they have shut down ALL their Twitter accounts, and have "scrubbed" the internet of any references of them to silence their voice exposing their criminal activity and al-Hakim found SpyWare Defendants Covertly Planted on al-Hakim's Company Computer through his web browser by defendants when he logged into his Interserver and U. S. Federal Courts account.

al-Hakim has long been targeted with an aggressive campaign of calumny deceit, to cause the ruin of al-Hakim, his family, their businesses, their business, real and personal property, his community and the clients they serve using the process of litigation to "harass, deny and win using all tactics". The Law can be *used* very easily to harass and cause their professional if not physical death, possible to annihilate him by destroying his credibility and moral character in all contexts leaving him a social and legal "pariah" in society incapable of being associated with or represented.

One of the many things they did to al-Hakim was to offer compensation to bribe members of his family in an effort to take his real, personal and business property from him and to cause him great pain and suffering. The court and their agent CSAA proceeded to bludgeon Mr. al-Hakim with over-burdensome litigation tactics to incriminate, charge, try, convict, incarcerate and eliminate al-Hakim. They DESTROYED his legitimate law suits and then sought to have Mr. al-Hakim declared a vexatious litigant for seeking relief based on those criminal and civil violations of the law! (see VENDETTA- TARGETED AL-HAKIM "CAMPAIGN OF CALUMNY DECEIT", al-Hakim Declaration at Page 7-9)

The judges, clerks and court administration has been and are **"fixing"** cases against al-Hakim attempting to protect the opposition as they have scheduled proceedings DEMANDING the hearing be on a date al-Hakim can NOT attend due to religious commitments that has been known to the defendants and the court for nearly 40 years, while REFUSING to have those proceedings on a date al-Hakim can attend, yet! (seeVENDETTA- TARGETED AL-HAKIM PERSECUTION, "MUSLIM BAN" by "FIXING CASES", al-Hakim Declaration at Page 12-14; and "Opposition to Case Fixing", filed April 4, 2018, in al-Hakim v. Interserver Inc., RG18-888371)

The use of judicial power to permit such injustice raises significant legal questions, and an order is necessary to prevent this abuse.

Brand has begun this specious vexatious litigant action to foreclose on al-Hakim's civil rights to eliminate any further threat he poses, while denying al-Hakim any opportunity for truth, fair relief, and justice against them in the "legal system"! The court has heeded al-Hakim's intentions to not only litigate his cases but some directly involve the corruption naming judges dating back nearly 40 years and the courts can not afford nor will they allow this to happen! They will shut down al-Hakim at ALL COST!

al-Hakim is aware that the Superior Court administration and judges have been working with law enforcement in a covert criminal undercover sting operation trying to entrap, frame and incriminate him in criminal activity that is fostered by the hearings in his cases to charge, try, convict, incarcerate and eliminate al-Hakim! The main purpose for the courts using this tactic and employing "court observers", colluding with the opposing parties and the entities mention in the "WRIT RACKET" criminal, civil, vexatious entrapment defense litigation strategy with third parties was to enable the filing of this motion. (See RESPONSE at "al-Hakim aware of Superior Court Criminal/Civil Vexatious Entrapment Litigation Strategy"**, al-Hakim Declaration at Page 15) These entities colluding and conspiring using the judicial arm of government whom perform and serve in the roles as suspect, culprit, criminal, evidence, testimony, facts, truth, perjury, investigator, witness, defendant, conspirators, corruptors, colluders, co-counsel, judge, jury, executioner, as the opposition party with their agenda of criminal corruption and persecution to the detriment and oppression of al-Hakim through the illegal use of public funds!** The court costs of addressing the challenges can NOT be a consideration when the courts has deviated far from the norm of standard litigation by employing their own private court observers, reporters, and agents in their cause to fabricate a case against al-Hakim and this vexatious motion.**(see** "Entire "Illegal" Proceedings are Grand, Systemic and Endemic Corruption**", al-Hakim Declaration at Page 15)**

"I don't care about challenges, they don't mean anything to me, I'm not scared of them!". "He has said that he files complaints, files challenges to document the actions of the court". "He filed complaints with me when I was presiding court judge", "he's a litigator in his own way"
- Judge C, Don Clay on al-Hakim's challenges and 56 complaints filed with and against him over the years

The FIFTY SIX (56) complaints listed in the 140 PAGE COMPLAINT and CHALLENGE against judge Clay is only a small sample of documentation, al-Hakim has filed and served a variety of letters, formal complaints, legal actions and legal challenges with the United States Attorney General's Office- Department of Justice; Federal and California State Judges, their ruling bodies and Associations; the Alameda County Superior Court of California, United States Attorney's Office- Northern District; United States District Court- Northern Division, Attorney General of California, Alameda County District Attorney; City of Oakland and Oakland City Attorney; Federal, State and local law enforcement; Federal, State and local politicians; regarding the many blatant civil rights violations, fraud, criminal activities and corruption of

these judicial, law enforcement, governmental and legal entities that was widely distributed over the internet and posted on many websites. (see 140 PAGE COMPLAINT and CHALLENGE of Judge Clay filed OCTOBER 3, 2018, and "al-Hakim 56 Complaints listed Document Communications with Clay Detail Corruption and Cover UP!", filed December 19, 2018, both in al-Hakim v. Interserver Inc., RG18-888371)

In July, 2005, al-Hakim filed a Federal Corruption Complaint with the United States Attorney General, Department of Justice, of a hate crime of Islamophobia and Xenophobia committed against him during the trial al-Hakim v. CSAA and Rescue, et. al" in Superior Court of Alameda County, California.

al-Hakim's initial investigation of his USDOJ demanded a change in this criminal, tactical policy of isolation, victimization, criminalization and the attempted entrapment of al-Hakim as the continuing victim, including the use of government initiated, Nixon era "White House Plumbers" and CoIntelpro style dirty tricks!

This State sponsored persecutory terror and civil conspiracy continued investigation of al-Hakim whom has been surveilled for years are just one example of the continuing efforts of law enforcement to silence and eliminate al-Hakim, even by death, as their "enemy of the State" adversary when al-Hakim has caught and exposed them as they have been entrapped in their own criminal snares! (see <u>Interserver Response</u>, al-Hakim Declaration at Page 52-67)

Faced with the imminent threat of having to publicly confront the legal, professional, social, political and financial consequences of their twenty (20) years of GRAND CORRUPTION, filed this polemic nearly bare of supported facts or authorities, in this completely meritless motion, in a last ditch attempt to BAR al-Hakim from "coming for them" in proceedings which are finally approaching on the outstanding grand corruption matters by Brand enacting their entrapment strategy to declare al-Hakim a "vexatious litigant" in a matter brought by Brand, to heard by Brand, and judged by Brand and BRAND ALONE!!!

A determination of vexatious litigant status specifically under Cal. Code Civ. Proc. §391(b)(3) requires somewhat more than a retaliatory judge conspiring with the defendant to complain that they perceive al-Hakim vexed to their mutual motive, interest, benefit, and opportunity is a reoccurring theme over the 20 years of this case where the defendants have represented the judges in this case against al-Hakim and the judges have likewise defended the defendants as "sitting judge for the defense" and "deputy defense counsel"! There are simply no meritorious

grounds for this motion at all. The statutory criteria are clearly stated and easily understood. And in this case, Plaintiff show they are as far removed from meeting the statutory criteria as possible, which Brand either knew or should have known before filing this motion out of retaliation and desperation.

The court can best decide upon the merits of the plaintiffs' motions *by reviewing them on the law*, not by relying entirely upon the opinion of Brand and the entities. Even a cursory review can only lead to the conclusion that the Plaintiffs' claims are potentially meritorious. And that in fact the tactics of the *defendants,* including Brand and the entities, are harassing and delaying the court and wasting its judicial resources, by preventing his actions from proceeding to due process and discovery.

This opposition is based upon this brief, the declaration and appendix of: Abdul-Jalil al-Hakim.

BRANDS ACTIONS IN THIS CASE ARE INDEFENSIBLE! THUS THIS VEXATIOUS ACTION

FACTUAL AND PROCEDURAL HISTORY

On April 4, 1999, al-Hakim files complaint where on July 3, 2000 CSAA files cross-complaint. On April 15, 2008, the Court enters judgment in favor of CSAA and against al-Hakim for $228,824.63. On May 15, 2017, the Court enters renewal of judgment against al-Hakim for $574,741.43. On October 16, 2017, defendants CSAA filed for an OSC for order for sale of dwelling. Hearing set for November 27, 2017. On November 20, 2017, al-Hakim files application to continue hearing on sale of dwelling. On November 22, 2017, al-Hakim files challenge for cause to Judge Colwell where parties stipulate to continue hearing on sale of building to January 22, 2018.

On November 27, 2017, Judge Colwell serves the order striking challenge for cause filed on November 22, 2017

On January 22, 2018 al-Hakim files challenge for cause to Judge Colwell and Court hears OSC re sale of building and takes matter under submission.

On January 25, 2018 Order striking challenge for cause filed on On January 22, 2018, served on On January 25, 2018.

On January 26, 2018, Colwell issues Order permitting creditor to sell dwelling at 7633 Sunkist Drive, Oakland, CA 94605.

On February 22, 2018, al-Hakim gives notice of ex parte application to stay sale of dwelling. Hearing set On February 26, 2018

On February 26, 2018, al-Hakim files challenge for cause to Judge Colwell, wherein Judge Colwell denies ex parte application to stay sale of dwelling at 7633 Sunkist Drive, Oakland, CA 94605

On February 26, 2018 Order striking 111 page challenge for cause filed on 2/26/18

On On February 28, 2018 Al-Hakim files notice of stay

On March 2, 2018, Wellpoint files ex parte application to strike notice of stay. Set for March 5, 2018, March 5, 2018, al-Hakim files challenge for cause to Judge Colwell, Judge Colwell denies Wellpoint's ex parte application.
March 6, 2018, Colwell files Order striking 120 page challenge for cause filed onMarch 5, 2018.
On March 8, 2018 Court of Appeal order that sale of dwelling is not stayed Al-Hakim files notice of bankruptcy stay
On March 8, 2018, al-Hakim files notice of bankruptcy stay
On June 25, 2018, Wellpoint files notice of dismissal of bankruptcy
On July 27, 2018 Sheriff sells the dwelling at 7633 Sunkist Drive, Oakland, CA 94605
On October 15, 2018 Remittitur filed. Order of Court of Appeal dismissed appeal
On January 9,2019 al-Hakim files challenge for cause to Judge Brand, Court continues hearings on motions to February 6, 2019.
On January 15, 2019, Brand issues Order striking 52 page challenge for cause filed on On January 9, 2019 in CSAA case. Fails to timely file answer in Green Key case. Green Key Filed January 22, 2019 to January 9, 2019 challenge (filed January 18, served Feb 1, 2019
On February 6, 2019 al-Hakim files challenges for cause to Judge Brand and Judge Schwartz
On February 11, 2019, Brand files Orders striking 67 page challenge for cause filed on On February 6, 2019 (served Feb. 14 with Schwartz)
On February 25, 2019 al-Hakim files challenges for cause to Judge Brand. Brand was challenged PURSUANT TO CALIFORNIA CCP §§170.1-5, (CCP §170.1(6)(A)(iii)), § 170.3 (c) (1)), the Canons of the Code of Judicial Conduct 1, 2, 2A, 2B(2), 3B(2), 3B(4), 3B(5), 3B(8), 3C, 3D(1), 3E, 3E(1), 3E(2), 4, 4D(1) and 4(E)(a corresponding Federal Statute, 28 United States Code section 455(a) (adopted by Congress in 1974); and FOR CAUSE UNDER CCP DUE TO CRIMINAL CONDUCT IN VIOLATION OF 18 U.S.C. §242, NOT just CCP §170.1 or 170.3. At the hearing on February 25, 2019, Brand denied the challenge as to CCP §170.1 ONLY, after a five minute break claiming he read the challenge. He refused to address any of the aspects of the challenge after being repeatedly asked and insisted that it was being denied as to CCP §170.1 ONLY, He remained silent as to ALL other aspects of the challenge!
On March 4, 2019, Brand files Orders striking challenge for cause filed on On February 25, 2019

LEGAL ARGUMENT

SUMMARY OF ARGUMENT

Brand and the Defendants' hopes to obtain a determination that plaintiff is vexatious litigant under the requirements of Cal. Code Civ. Proc. § 39l(b)(3), are vanquished on every conceivable criterion or grounds possible. Cal. Code Civ. Proc. §39l(b)(3) states:

(b) "Vexatious litigant" means a person who does any of the following:
(3) In any litigation while acting in propria persona, repeatedly files unmeritorious motions, pleadings, or other papers, conducts unnecessary discovery, or engages in other tactics that are frivolous or solely intended to cause unnecessary delay.

This vexatious litigant proceeding is because al-Hakim has filed challenges, BUT FOR CAUSE, none are frivolous or unmeritorious nor are the suits al-Hakim filed, but challenges for cause!

Brand was challenged PURSUANT TO CALIFORNIA CCP §§170.1-5, (CCP §170.1(6)(A)(iii)), § 170.3 (c) (1)), the Canons of the Code of Judicial Conduct 1, 2, 2A, 2B(2), 3B(2), 3B(4), 3B(5), 3B(8), 3C, 3D(1), 3E, 3E(1), 3E(2), 4, 4D(1) and 4(E)(a corresponding Federal Statute, 28 United States Code section 455(a) (adopted by Congress in 1974); and FOR CAUSE UNDER CCP DUE TO CRIMINAL CONDUCT IN VIOLATION OF 18 U.S.C. §242, NOT just CCP §170.1 or 170.3. At the hearing on February 25, 2019, Brand denied the challenge as to CCP §170.1 ONLY, after a five minute break claiming he read the challenge. He refused to address any of the aspects of the challenge after being repeatedly asked and insisted that it was being denied as to CCP §170.1 ONLY, He remained silent as to ALL other aspects of the challenge! The SEVENTEEN (17) successful judicial recusals and (3) additional failures to file answers striking the challenges before leaving the court/department, al-Hakim's pending appeals of challenges; his pending and unanswered challenges, with Brands challenge matter still pending CLEARLY DEMONSTRATE THEY ARE NOT MERITLESS NOR FRIVOLOUS BUT PREEMINENT, THE EMBODIMENT OF THE RULE OF LAW, AND MANDATED TO ESTABLISH AND PRESERVE ALL OF al-HAKIM'S CONSTITUTIONAL RIGHTS! (See RESPONSE to "purpose of delay" and " frivolous or meritless challenges" and fifteen (15) successful recusals **, al-Hakim Declaration at Page** 21)

I. PLAINTIFFS COULD NOT BE CONSTRUED BY ANY CONCEIVABLE STANDARD TO MEET THE STATUTORY CRITERIA FOR VEXATIOUS LITIGANT DETERMINATION

In support of the following facts and arguments, plaintiff offers the Declaration and Appendix of Abdul-Jalil al-Hakim, and Memorandum of Points and Authorities In Opposition to Brands Vexatious litigant

Defendant has not met their burden to show that al-Hakim is a "vexatious litigant"

1. The defendants brief is insufficient and defective on it's face!

Defendants brief is comprised solely of a list of items from a docket, DO NOT argue nor do they provide any case law to support their contentions that al-Hakim is a vexatious litigant. The only other example" in support of their contention is a reference to challenges to judge Tigar- whom they represented in his first staged recusal who has now recused again in another matter pending! That's TWO recusals for Tigar alone!

2. Defendant has not met their burden to show that al-Hakim is a "vexatious litigant" Under Cal. Code of Civil Procedure section 39I(b)(2), or 391(b)(3).

Defendants fail to address the following twelve (12) issues raised in the order to show cause of:

1) that al-Hakim has a practice of filing meritless challenges;
2) al-Hakim has a practice of filing challenges on the date of hearings, suggesting they are frivolous and filed for purpose of delay in the same case or different case;
3) the relevant information in five cases;
4) the registers of action in the five cases;
5) al-Hakim repeats information from prior challenges that have been stricken in the same case and other cases;
6) al-Hakim takes the position that proceedings cannot proceed until the court reads and decides a challenge;
7) procedure of judges taking the challenges under submission ensured both that the court reviewed and decided the challenge before issuing a substantive decision and that the resolution of the substantive motion was not unduly delayed;
8) defendants does not discuss the allegations and other factual contentions of the challenges that must have evidentiary support;
9) al-Hakim v. Superior Court, A156052, the Court of Appeal's order of 2/4/19 denied a petition for writ of mandate and request for a stay, citing numerous authorities on what is required for a meritorious challenge for cause. (Filed in al-Hakim v. EBMUD.);
10) al-Hakim has initiated 16 matters at the Court of Appeal and has initiated 8 matters at the Supreme Court. (Exhs F and G.);
11) six motions pending. These motions have been continued repeatedly as a result of al-Hakim's practice of filing lengthy challenges on the dates of the hearings;
12) how this directly impacts the operations and procedures of the court and through the use of court resources indirectly imposes financial obligations that directly affect the court'; and
13) al-Hakim's practice of frivolous litigation tactics extend to the Court of Appeal in al-Hakim v. California State Automobile Ass'n, A153640, and the Bankruptcy Court in In re al-Hakim, US Bankr., N.D. CA, Case No. 18-41048 (both filed in al-Hakim v. CSAA)

Under Cal. Code of Civil Procedure section 39I(b)(2), *a "vexatious litigant" means a person who, "[a]fter a litigation has been finally determined against the person, repeatedly re-litigates or attempts to relitigate, in propria persona, either (i) the validity of the determination against the same defendant or defendants as to whom the litigation was finally determined or (ii) the cause of action, claim, controversy, or any of the issues of fact or law, determined or concluded by the final determination against the Same defendant or defendants as to whom the litigation was finally determined*."

Defendant has not met their burden to show that plaintiff attempted such litigation of the same issue at least two times. (See Holcomb v. United States Bank Nat'l Ass'n (2005) 129 Cal. App. 4th at 1504.) and defendant doesn't explain how each litigated case compares to another, and why each is a re-litigation of the other such that CCP 391(b)(2) is implicated. (See, e.g., First Western Development Corp. v. Superior Court (1989) 212 Cal.App.3d 860, 867-868 ["The purpose of the statutory scheme is to deal with the problem created by the persistent and obsessive litigant who has constantly pending a number of groundless actions ...."])

Under CCP section 391(b)(3), a "vexatious litigant" means a person who, "[i]n any litigation while acting in propria persona, repeatedly files unmeritorious motions, pleadings, or other papers, conducts unnecessary discovery, or engages in other tactics that are frivolous or solely intended to cause unnecessary delay."

Defendant doesn't proceed through each case to explain why each motion that was filed and discovery that was propounded was unnecessary or without merit. Plaintiffs litigation does not include any unmeritorious papers, based on what was presented on this motion alone, defendant did not meet their burden to show that plaintiff repeatedly has filed unmeritorious motions, pleadings, or other papers, or that he conducts unnecessary discovery such that CCP section 391(b)(3) is implicated. Defendant fails to state the reasons why these actions were without merit, frivolous or solely intended to cause unnecessary delay, it is not sufficiently addressed.

ALL Defendant's other examples are similarly lacking an explanation of why and how each of plaintiffs filings are without merit, frivolous or solely intended to cause unnecessary delay with NO explanation of the “scheme” behind the litigation cases, how they compare to another, and why each is a “scheme” of the other.

Defendant doesn't proceed through each of the thirteen (13) issues raised in the order to show cause and explain why and how each of them impacted litigation and the other the cases.

3. <u>Relitigation Justified In Defendants' Extrinsic Fraud Obtaining Judgment</u>

Defendants do NOT meet their burden to show that plaintiff attempted such litigation of the same issue at least two times. (See Holcomb v. United States Bank Nat'l Ass'n (2005) 129 Cal. App.

4th at 1504.) and defendant doesn't explain how each litigated case compares to another, and why each is a re-litigation of the other such that CCP 391(b)(2) is implicated. (See, e.g., First Western Development Corp. v. Superior Court (1989) 212 Cal.App.3d 860, 867-868 ["The purpose of the statutory scheme is to deal with the problem created by the persistent and obsessive litigant who has constantly pending a number of groundless actions …."])

As is plain in this case, the ONLY two cases defendants reference, the Bankruptcy and Appeals dismissal, were BOTH UNSERVED, UNOPPOSED DEFAULTS TAKEN AGAINST AL-HAKIM AS THE PRODUCT OF DEFENDANTS FRAUD! The case of KOUGASlAN vs TMSL, lNC. (9th cir..2004) 359 F3d 1136 demonstrates a plaintiff who relitigates until the Federal courts set aside state judgments obtained by defendants' extrinsic fraud on Plaintiff, the People of California and this State Court is ALLOWED AND JUSTIFIED. "Reasonable relitigation is justified when dealing with defendants' extrinsic fraud in obtaining a judgment in an action for fraud."

al-Hakim turns to HOLCOMB VS U. S. BANK NAT. ASSN. (2005) 129 CA4th 1494, which stands for the proposition that two relitigations alone are NOT sufficient to satisfy the requirement a party "repeatedly" relitigates, does not constitute "repeatedly relitigates" a matter that has been finally determined as set forth at page 15041.

The repeated motions must be so devoid of merit and be so frivolous that they can be described as a '"flagrant abuse of the system,"' have 'no reasonable probability of success,' lack 'reasonable or probable cause or excuse' and are clearly meant to '"abuse the processes of the courts and to harass the adverse party . . . ."'" (Morton v. Wagner (2007) 156 Cal. App. 4th 963, 972; see Golin v. Allenby (2010) 190 Cal. App. 4th 616, 639, fn. 29 ["[t]he vexatious litigant statutes do not define 'frivolous' but we note that under section 128.5, subdivision (b)(2), this term is defined as '(A) totally and completely without merit or (B) for the sole purpose of harassing an opposing party'"].)

4. Defendant did not meet their burden to show unmeritorious motions

Plaintiff does not meeting any of the statutory definitions: "repeatedly relitigat[ing] or attempt[ing] to relitigate, *in propria persona*, *after a litigation has been finally determined against the person*, either (i) the validity of the determination against the *same defendant or defendants* as to whom the litigation was finally determined or (ii) the cause of action, claim, controversy, or any of the issues of fact or law, determined or concluded by the *final*

determination against the same defendant or defendants as to whom the litigation was *finally determined*," failing the test of Cal. Code Civ. Proc. §391(b)(2).

Defendant does not proceed through each case to explain why each motion that was filed and discovery that was propounded was unnecessary or without merit. Plaintiff presents the truth, facts, evidence, and testimony that clearly prove his filings are meritorious! An honest evaluation of Plaintiffs papers bears this out.

The evidence herein of the courts and defendant ESTABLISHES al-Hakim's case, there is no evidence of true vexatious litigation. Plaintiffs litigation does not include any unmeritorious papers, based on what was presented on this motion alone, defendant did not meet their burden to show that plaintiff repeatedly has filed unmeritorious motions, pleadings, or other papers, or that he conducts unnecessary discovery such that CCP section 391(b)(3) is implicated. Defendant fails to state the reasons why these actions were without merit or frivolous, it is not sufficiently addressed. Defendant's other examples are similarly lacking an explanation why plaintiffs filings are without merit or why and how he engages in other tactics that are frivolous.

Plaintiff's Seventeen (17) Recusals and Disqualifications

In reviewing the outcomes of the recusal motions and objections, the Court cannot determine that the challenges by themselves rise to the level of a frivolous litigation tactic for the reason that al-Hakim has been successful. In *Golin v. Allenby* (2010) 190 Cal. App.4th 616, 118 Cal. Rptr.3d 762, 783 the Court concluded that the tactic did rise to the level of a frivolous litigation tactic because, "in this case alone, their judicial challenges directly resulted in recusals only twice and more often, they did not." Id. at 784. Here, however, the ultimate outcomes of Plaintiff's challenges are more positive. Plaintiff has had seventeen (17) judicial officers ultimately recused themselves or were disqualified. In addition, the challenges against three other judicial officers have not been subject to a final determination, have not been adjudicated as meritless.

However egregious or improper Plaintiff's challenges, the Court can not conclude that they alone are sufficient in light of Plaintiff's other successes" to find a pattern that rises to the level of a frivolous litigation tactic.

5. Defendant did not meet their burden to show unnecessary delay

Defendant fails to state the reasons why these actions were solely intended to cause unnecessary delay, it is not sufficiently addressed. Defendant's other examples are similarly lacking an

explanation why plaintiffs filings are solely intended to cause unnecessary delay or why and how he engages in other tactics that are solely intended to cause unnecessary delay.

There has been NO delay, if any, attributed to (1) al-Hakim exercising his full civil rights to a fair and impartial judge and trial on the merits of the cases as proscribed by law without being forced to waive those rights to have an unfair and partial judge and trial; (2) with regards to the bankruptcy proceedings, the same rights and actions apply where al-Hakim would NOT waive his rights by accepting a trustee that had embezzled $10,000 from him and defendants gained an unserved, uncontested, defaulted order procured through fraud while al-Hakim was in a prior court noticed retreat during the Holy month of Ramadan and unable to respond to any litigation!. That matter is under investigation and review; (3) with regards to the Appeals Court proceedings, again defendants gained an unserved, uncontested, order procured through fraud that included NO NOTICE of any type from theAppeals court itself regarding the action to dismiss, and defendants unserved, uncontested, defaulted discovery order that was vacated was the underpinning for the Appeals court decision removes ALL support for the courts ruling. That matter has been under appeal in the Supreme Court, investigation and review in the Supreme and Appeals courts and judicial administrative agencies; and, (4) Plaintiff's efforts to discover the extrinsic fraud herein of the court, defendants, and entities.

6. Litigiousness, alone, cannot support a finding of vexatiousness

In *Doran v. Vicorp Restaurants, Inc*., 407 F.Supp.2d 1115, 1118, C.D.Cal.,2005, the defendants argued that he should be declared a vexatious litigant, "because he has filed ***219 lawsuits***, (repeat, *219!*) many alleging the same facts and injuries in the federal courts." (Mot., p. 15.) But the court did not declare Doran vexatious! According to Defendants, it follows that Doran is a "prolific litigant who acts in a 'vexatious and harassing' manner." (*Id*.) (*Doran* at 1119). The Court disagreed, saying that Doran was not a vexatious litigant merely because he filed ***219 suits***. (Emph added) Rather, the Court must "look at 'both the number *and content* of the filings as indicia' of the frivolousness of the litigant's claims." *Hennessey,* 912 F.2d at 1148 (*quoting In re Powell,* 851 F.2d 427, 431 (D.C.Cir.1988)). The Court reviewed the complaint and found it was not "patently without merit" *Moy v. U.S*., 906 F.2d 467 at 470. 906 F.2d 467, C.A.9 (Cal., 1990) "Since an injunction preventing the relitigation of claims restricts an individual's access to the court system, it is an extraordinary remedy that should be narrowly tailored and rarely used. *Wood,* 705 F.2d at 1524-26; *Franklin,* 745 F.2d at 1231; *In re Packer Ave. Assoc.,* 884 F.2d 745,

747 (3d Cir.1989). An injunction cannot issue merely upon a showing of litigiousness. The plaintiff's claims must not only be numerous, but also be patently without merit. *Oliver,* 682 F.2d at 446." (*Moy,* at 470).

Under federal law, litigiousness alone is insufficient to support a finding of vexatiousness. See Moy v. United States, 906 F.2d 467, 470 (9th Cir. 1990) (the plaintiff's claims must not only be numerous, but also be patently without merit). "The mere fact that a party has prevailed in a suit does not mean that the party has not engaged in vexatious and groundless litigation. For example, a party may combine sound and ultimately successful defenses with frivolous ones designed solely to harass the opposing party." (In re Kun (1989) 868 F.2d 1069). The focus is on the number of suits that were frivolous or harassing in nature rather than on the number of suits that were simply adversely decided. See De Long, 912 F.2d at 1147-48 (before a district court issues a pre-filing injunction against a pro se litigant, it is incumbent on the court to make substantive findings as to the frivolous or harassing nature of the litigant's actions). The Ninth Circuit has defined vexatious litigation as "without reasonable or probable cause or excuse, harassing, or annoying." Microsoft Corp. v. Motorola, Inc., 696 F.3d 872, 886 (9th Cir. 2012). For these reasons, the mere fact that a plaintiff has had numerous suits dismissed against him is an insufficient ground upon which to make a finding of vexatiousness under Ninth Circuit precedent.

7. <u>Rule of law by law and Rule by whim or caprice</u>

al-Hakim's filing challenges in the courts is not a ground for denying access to the courts. See Weeks v. Roberts (1968) 68 Cal.2d 802. "It is the task of the law to remedy wrongs which merit redress even at the expense of incurring a torrent of litigation." (1 Am Jur 2d §43, s.v. "Novelty of action"). (Pro se litigants are not the cause of overcrowded courts. The honest straightforward pro se litigant who makes mistakes out of ignorance is far less a threat to the judicial system then the conniving lawyer who turns a simple dispute into years and years of fee-generating (and court-congesting) litigation. Abuse of judicial process is properly the subject of case-by-case judicial determinations.])

This procedure of Brand sitting in judgment of his own fraud on the court and passing his determination on to judge Carvill to enforce the cover up of their corruption spells the difference between rule of law by law and rule by whim or caprice. Joint Anti-Fascist Refugee Committee v. McGrath (1951) 341 U.S. 123,179.

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"For a citizen to be made to forego even a part of so basic a liberty . . ., the subordinating interest of the State must be compelling." (Sweezy v. New Hampshire (1956) 354 U.S. 234,265 — concurring opinion).] How does the presiding judge make a determination that the proposed litigation is "colorable" if not by reviewing the content of the papers?]

"If a person's right to a hearing depends on the will or caprice of others, or on the discretion of the judge who is to make a decision on the issue, that person is not protected in his or her constitutional rights." (13 CAL JUR (Rev) Part 1, s.v."Constitutional Law", §287 (noting Re Lambert (1901) 134 Cal. 626)).]

The right to file litigation is not limited to "meritorious litigation". "[A] man with a poor case is as much entitled to have it judicially determined by usual legal process as the man with a good case" (Bartholomew v. Bartholomew (1942) 56 Cal.App.2d 216,224). "[O]ur courts, both state and federal, have always been open to litigation of complaints irrespective of how baseless they eventually prove to be." (Stevens v. Frick (1966) 259 F.Supp.654, 657).]

8. Current lawsuit has not been "finally determined", adversely or otherwise

Plaintiffs' present instant lawsuit that commenced in 1998 still has not been "finally determined adversely to the person" (Cal. Code Civ. Proc. §391(b)(1)(i)) as a direct and proximate cause of the 20 year grand corruption in this case that is the subject of the expected litigation Brand, defendants and entities are trying to bar with this action, and thus may not be qualified. There is no reason to construe that the court's previous orders in this case can be constitute "issues finally determined adversely", on their merits, since no evidence was presented or available at trial while plaintiff was attending THREE funerals/memorials with prior court approval, and the court concluded the case in his absence with theONLY evidence presented by defendants was fabricated and planted in the case files by the City of Oakland with defendants and judge Kim Colwell's law partner and boss, Jayne Williams. In fact, there is no reason that plaintiffs should not now win on the admitted fraud claims that will be pursued.

9. <u>Register of Actions show nothing about qualifying merit of motions</u>

al-Hakim has filed numerous complaints of the Register of Actions is evidence of fraud against the judges and Department 511 Court Administration History of Perverting Obstructing Justice, or the Due Administration of the Laws in several al-Hakim cases. (**see** The Register of Actions Is Evidence of the Manipulation of the Record and Register of Actions; Criminal Conduct In

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Violation of The Law, al-Hakim Declaration at Page 77-84; and **2/25/19 Brand Challenge at ¶¶ 29-37, Page 43-45)**

In its zeal to support its contention that plaintiffs' previous motions were frequent or meritless, Brand and defendants attached a compendium of previous actions listed to their motion, but this is insufficient. As opined in *Holcomb v. U.S. Bank Nat. Ass'n* (2005), 129 Cal.App.4th 1494, 1506, 29 Cal.Rptr.3d 578,

"It is difficult, if not impossible, to make a determination under subdivision (b)(3) simply by resort to the docket sheet of a previous case. Even when the outcome of a particular motion can be successfully divined from the docket -- a task that is not always easy -- it is often impossible to discern whether the particular motion was completely meritless, or made for an improper purpose."

10. This vexatious motion abuse of process and malicious use of process

This vexatious motion was commenced by agreement or at the direction of the court and defendant and is being pursued to a legal termination in their favor, was brought without probable cause, was initiated with malice with the motive to obtain a collateral advantage and provide a legal defense for them because they have been, are and will be a defendants and witnesses needing protection with a vexatious finding against al-Hakim. The conspiracy was admitted by judge Colwell at a hearing where CSAA- Bradley confirmed he was going to file a vexatious motion upon her acknowledgement of it as she awaited the Remitter from the appeals court. It is further confirmed by the massive blunder of judge Clay filing two orders admitting the conspiracy that began with his TWO failed vexatious motions and two orders revealing that the al-Hakim v. EBMUD action was dismissed for lack of prosecution, that this fact MUST be addressed in defendants Interserver Equinix vexatious brief, when it had NOT HAPPENED! Colwell, Court administration, CSAA and the City of Oakland participated in judge Clay's failed two vexatious litigant proceedings with defendants Interserver and Equinix. (see "Clay's Own Alleged Vexatious Litigant Proceeding", Challenge for Cause of judge C. Don Clay filed October 3, 2018, Page 15-19, and 29-33)

Colwell in her order of September 20, 2018 writes:

"CSAA's further Opposition filed 9/7/18 at 2:17-21 suggests that the court declare Mr. aI-Hakim a vexatious litigant. The court will not issue such an order on its own initiative without issuing an order to show cause and giving Mr. al-Hakim the opportunity to demonstrate why the court should not issue such an order. CSAA may file a motion for such an order. The court takes

judicial notice that such as motion is pending before a different judge in ai-Hakim v. Interserver, RG18888371 (motion filed 2116118,hearing set for 9/26/18).
Dated: 09/20/2018
Order
Judge Kimberly E. Colwell

Abuse of process is the malicious and deliberate misuse of regularly issued civil or criminal court process that is not justified by the underlying legal action, and that the abuser of process is interested only in accomplishing some improper purpose similar to the proper object of the process. Pellegrino Food Prods. Co. v. City of Warren, 136 F. Supp. 2d 391, 407 (W.D. Pa. 2000).

A wrongful use of processes such as attachment of property, unjustified arrest, subpoenas to testify, executions on property, unfounded criminal prosecution, and garnishee orders are considered as abuse of process.

Judge Brand, Colwell, Kaus, Clay, and others have precluded al-Hakim from attempting to secure his property and safety, circumstance bears noting as further indicia of their prejudice and bias against al-Hakim.

Brands malicious prosecution and malicious use of process of this civil proceeding is criminal, and al-Hakim has proven that the action (1) was commenced by or at the direction of the defendant and is being pursued to a legal termination in his favor (2) was brought without probable cause; and (3) was initiated with malice. See *Babb* v.*Superior Court* (1971) 3 Cal.3d 841, 845 (92 Cal. Rptr.) 179, 479 P.2d 379; *Grant* v. *Moore* (1866) 29 Cal. 644, 648; *Albertson* v.*Raboff* (1956) 46 Cal.2d 375, 383 (295 P.2d 405).

The same set of facts may lead to different torts of malicious prosecution and malicious use of process. Franco v. Mudford, 2002 Mass. App. Div. 63, 2002 WL 539065 (2002). It is important to note that ulterior motive or purpose required in an abuse of process action can be in the form of coercion to obtain a collateral advantage that is not properly involved in the proceeding. *Nienstedt v. Wetzel,* 133 Ariz. 348 (Ariz. Ct. App. 1982).

11. Unrestrained obstruction and perversion of justice

Brand seeks to ignore the evidence of his and his clerks fraud on the court, court administration manipulating the system, altering the register of actions, bias in the issuing of reservation numbers to file motions, setting hearing dates, the hearings, and judgement of motions, briefs,

1 arguments, announcing the tentative rulings, tentative rulings, orders, filing documents, serving
2 documents, and other such misconduct.
3 Plaintiff argues Brand's recent six orders of March 24, 2019 has merely substantiated the
4 evidence of the continuing Judicial and Superior Court Administration Grand, Systemic and
5 Endemic Corruption; Manipulation of the Record and Register of Actions; Obstruction of Justice
6 in Motions; Demand for Removal of Judge Brand For Cause; Criminal Conduct In Violation of
7 The Law; Conduct To Pervert or Obstruct Justice, or the Due Administration of the Laws
8 (Pen.Code, §§ 182, subd. (a)(1), 4570) 1 and Conspiracy to Pervert or Obstruct Justice (§ 182,
9 subd. (a)(5)); Fraud Upon The Court.
10 *MOTION NO. 5. **(see 2/25/19 Brand Challenge at ¶¶ 19-20, Page 35-36, and Declaration and Exhibits to Motion to Vacate tentative order of 9/20/18 on Motion of CSAA with order granted 1/26/18 that permitted Wellpoint to sell the dwelling at 7633 Sunkist Drive, Oakland, CA 94605 Filed 12/6/18)***
11 *The motion is DENIED because the tentative decision issued before the hearing set for 9/20/18 was not a court order. **"A tentative ruling is just that, tentative."** (Guzman v. Visalia Community Bank (1999) 71 Cal.App.4th 1370, 1378.) "[A] trial court's tentative ruling is not binding on the court; the court's final order supersedes the tentative ruling." (Silverado Modjeska Recreation and Parks Dist. v. County of Orange (2011) 197 Cal.App.4th 282, 300.)*
12 *The motion is DENIED because the order following the hearing set for 9/20/18 was to continue the hearing and was not substantive.*
13 **THE RULINGS ARE TENTATIVE, BUT THE FRAUD IS PERMANENT AND
14 FOREVER AND WILL NOT BE PARDONED AS SUCH FOR THE PURPOSE OF
15 BRAND AND STAFF'S SELF EXONERATION!**
16 al-Hakim presents proof, under color of law, Judge Brand and the clerk's sought to deprive him
17 of litigation due him contrary to the right to due process and immunity from takings without due
18 process guaranteed by the 5th and 14th Amendments to the United States Constitution in their
19 **FRAUD**, conduct to pervert or obstruct justice, or the due administration of the laws, conspiracy
20 to pervert or obstruct justice. In so doing they acted with malicious intent to favor opposing
21 litigants and the court by unlawful exercise of discretion, possibly by agreement or conspiracy
22 between these parties in premeditated violation of 18 U.S.C. §241, constituted an intentional,
23 egregious crime within the meaning of 18 U.S.C. §242. (see 2/25/19 Brand Challenge at ¶¶ 21,
24 Page 38; ¶¶ 29-54, Page 43-55)
25 Further, unrestrained obstruction and perversion of justice, perjury, personal abuse and deceptive
26 behavior characterized Brands, the judges, and defendant's conduct during al-Hakim's
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proceedings. (See Alberton v. State Bar (1984) 37 Cal.3d 1, 11, fn. 18 [206 Cal. Rptr. 373, 686 P. 2d 1177].)

12. Brand and his Court Administration Perverting, Obstructing Justice, or the Due Administration of the Laws in Green Key vs. al-Hakim

Brand ignored the fact al-Hakim did NOT received any response from the court to his over THIRTEEN (13) communications, and **hand delivered the documents with a court filed letter requests to his clerks Scott Sanchez and Cynthia Trinidad** over three weeks PRIOR to the January 2, 2019 and January 3, 2019, hearings to file an ex-parte motion for a continuance of the hearings he was unable to attend and proceeded despite the notices and issued a default against al-Hakim in favor of Green Key. (see 2/25/19 Brand Challenge at ¶¶ 21-29, 38, 42)

Brand was the sole force behind moving this litigation forward for them, as Green Key has failed to appear THREE TIMES consecutively without notice nor reason submitted to the court nor al-Hakim, have not filed an opposition to the motion to vacate the default writ of execution, and have NOT been issued a default nor al-Hakim being granted his motion to vacate the default taken against him!

Brand ordered the unlawful, illegal eviction of al-Hakim and admitted that the last two continuances were because the CSAA matters were continued even though those matters had nothing to do with other.

The order is oppressive and a clear denial simply to avoid the issues raised in the challenges. The courts rulings in Green Key vs. al-Hakim, will be set aside entirely as the product of fraud on the court from the clear continued practice of obstruction and perverting of justice. (see 2/25/19 Brand Challenge at ¶¶ 22-28, 38, 42)

Further, unrestrained obstruction and perversion of justice, perjury, personal abuse and deceptive behavior characterized Brands, the judges, and defendant's conduct during al-Hakim's proceedings. (See Alberton v. State Bar (1984) 37 Cal.3d 1, 11, fn. 18 [206 Cal. Rptr. 373, 686 P. 2d 1177].)

It is evident that Brands, the judges, and defendant's has no appreciation for the rule of law, that their method of administering justice and practicing law is totally at odds with the judicial, legal and professional standards of this state and country. Disbarment and censure are thus necessary to protect the public, preserve confidence in the profession, and maintain high professional

standards. (Ainsworth v. State Bar (1988) 46 Cal.3d 1218, 1235 [252 Cal. Rptr. 267, 762 P.2d 431].)

13. Brands Moral Turpitude

The judges, clerks, and court administration have committed multiple acts of misconduct involving moral turpitude, referring to their various obstruction and perversion of justice, perjury, personal abuse and deception, falsehoods, alterations and acts of falsifying court documents and concealing the acts are moral turpitude, and are a flagrant deviation from professional standards that cannot conceivably come under the protection as an officer of the court! Such a rampant course of misconduct and deceit fully warrants censure and disbarment. Multiple acts of misconduct involving moral turpitude and dishonesty warrant disbarment. (See std. 2.3, Stds. for Atty. Sanctions for Prof. Misconduct, div. V, Rules Proc. of State Bar; compare Dixon v. State Bar (1982) 32 Cal.3d 728, 739, 740 [187 Cal. Rptr. 30, 653 P.2d 321].) Petitioner's pattern of serious, recurrent misconduct is a factor in aggravation. (Garlow v. State Bar (1988) 44 Cal.3d 689, 711 [244 Cal. Rptr. 452, 749 P.2d 1307].)

14. Judge Brand Disqualified Per CCP §170.3(c)(4) for NOT Answering nor Striking Challenge and Statement of Disqualification Within Ten-Day Time Limit

On January 9, 2018, Brand was Challenged in BOTH cases for cause pursuant to Code of Civil Procedure sections 170.1 and 170.3 wherein the Green Key Investments v. al-Hakim Brand decided NOT to file and serve an answer to the Challenge until FEBRUARY 1, 2019, thereby consenting to the Challenge per CCP §170.3(c)(4) for failure to file an order striking the Challenge within 10 days.**(see 2/25/19 Brand Challenge at Page 2-3)**

Brand issued an order dated January 22, 2019, wherein he attempts to deflect his dereliction by claiming that it was served *"On January 16, 2019"*.

THIS IS A COMPLETE AND TOTAL LIE, A MASIVE FABRICATION! **(see 2/25/19 Brand Challenge at Page 2-5)**

Brand's order/answer Striking the Challenge For Cause was dated January 22, 2019, filed on January 18, 2019, AND SERVED BY MAIL ON FEBRUARY 1, 2019. **THE ORDER WAS ALLEGEDLY FILED FOUR (4) DAYS BEFORE IT WAS SIGNED BY BRAND** AND WAS ALLEGEDLY SERVED FOURTEEN (14) DAYS AFTER IT WAS FILED!

al-HAKIM ONLY RECEIVED A COPY OF THE ANSWER/ORDER AT THE HEARING ON FEBRUARY 11, 2019.

THIS IS MORE THAN THIRTY DAYS AFTER THE CHALLENGE WAS SERVED AND FILED!!!

This constitutes Brands disqualification as he did not file and serve an answer within ten days, he is considered to have consented to the disqualification. CCP §170.3(c)(4); *People v Superior Court* (Mudge) (1997) 54 CA4th 407, 411, 62 CR2d 721.

II. DEFENDANTS' SUPPORTING DECLARATIONS ASSERTING PAST AND PROJECTED COSTS FOR LITIGATION ARE UNSUPPORTED, DUBIOUS, INCONSISTENT, LACK CREDIBILITY OR MERIT AND SHOULD BE DISREGARDED

1. Pleading Hardship is Not New for Defendants, and Not Credible.

The Case of al-Hakim vs CSAA is an over $30 million, 20 year; contentious action; was the largest, continuous case file in the history of Alameda County Superior Court, over 80 file boxes; over 300 motions and responses; plaintiff had over 300 exhibits; over 5,000 pages of exhibits; 3,000 pages of documents for rebuttal argument; 20 expert witnesses; 77 other witnesses; over 100 pages of jury instructions; with numerous allegations of judicial misconduct, where EVERY judge in this case has admitted error, committed perjury, recused themselves, or all three!

Due to the continuing, 20 year grand fraud, this case has NOT been exhausted to finality!

Brand and defendants all plead to Brand to protect them from litigation expenses. Should the matter proceed, there will be more costs to all alike. And the resources available to the Courts and defendants grossly outweigh the penniless resources of al-Hakim. So far Brand and the court have always had unlimited financial resources, using taxpayers' revenues, and likewise for defendants to oppose all the filings and motions for relief, most they have filed.

ALL the litigation in this case since 2008 has been at the filing of the defendants and they now want the court to order them to be paid for that BEFORE they perform any duties they would otherwise have to do in the normal course of the duties as a "debt collectors".

It has always been puzzling why the court and the entities, city attorneys have spent so much of our public money just to prevent one helpless old man and his family from seeking judicial review of the wrongs in their complaints, when the court, the entities and their agents, routinely assert the need to cut back on services. Yet lavish funds on legal protections, perhaps ALL fear inquiry into their grand corruption and financial costs would uncover criminal legal and fiscal irregularities.

The amounts of claimed prior costs of litigation borne by the defendants up to present are highly open to doubt and suspect. We believe the alleged attorney's costs **are** severely inflated. We have previously speculated that they had to be easily over billed and we have seen several hourly rates for Bradley that are totally ridiculous, now at $350 per hour, and we ask for documented proof. Most ALL the work that he has presented are the product of Ron Cook and the law firm of Willoughby, Stuart & Bening and defense counsel Steve Barber and the law firm of Ropers Majeski!

For example, he complains that it has "*spent more than 234 hours handling this case from December 27, 2016 through September 26,2018*" in litigation. Yet they claim they now have "*estimates that enforcing a judgment through the levy and sale of real property will cost approximately $20,000 to $30,000"* for a task that has already been performed! What WERE the real costs!?

He claims "*This case has cost Wellpoint more than $80,000 of fees only through September 2018"* for work that he initiated and got paid for as a debt collector! He further laments that "*The additional litigation caused by Mr. al-Hakim's appeal, writ petitions, petitions for review to the California Supreme Court, serial bankruptcy filings and need to pursue relief from stay motions, ex parte applications, and wasted court appearances have cost Wellpoint more than $50,000 more than what one would expect to see*.!" That is not possible given the activity wherein Bradley HAS NOT filed any responses to the Supreme and Appeals courts motions filed by al-Hakim even though he lists twelve (12) and claims that it is nineteen (19), the motions he did file were his own, ALL unserved and he received uncontested orders in each one of them! Not to mention, these were HIS filings, NOT responses to ANY that al-Hakim filed!

Bradley wants to "double dip" and get paid three times, attempts to "blow up" the costs to justify a quick payday from his partners for work he had to perform and got paid for and now to orchestrate evidence to declare al-Hakim a vexatious litigant at the same time! WHERE ARE HIS BILLINGS!!??

To engineer the vexatious motion, defendants contrived this frivolous, meritless motion recently denied by Brand as follows:

MOTION NO. 4
(4) Motion of Well point Asset Recovery for sanctions (filed 9/26/18) (Res #20005614)
4. The Motion of Well point Asset Recovery for sanctions under CCP 128.5 is DENIED. (Filed 9/26/18) (Res #20005614)

The Motion of Wellpoint Asset Recovery for sanctions under CCP 128.5 is DENIED. (Filed 9/26/18) (Res #20005614)
Wellpoint argues that al-Hakim contested the tentative decision and gave notice of intent to appear on 9/20/18, but then failed to appear. Mr. Al-Hakim states that on 9/14/18 he filed a notice that would not be available on 9/20/18 and requested that the hearing be continued. The court's records reflect that the tentative ruling was to continue the motion set for 9/20/18. The court will not order sanctions based on this incident.
Wellpoint also argues that al-Hakim has a history of bad faith litigation tactics. The court will not review the history on the litigation on this motion. (see 2/25/19 Brand Challenge at ¶¶ 29-31, Page 43-44; **and al-Hakim's Declaration in Opposition and Exhibits to Motion of CSAA for Sanctions Filed 9/26/18**)

This frivolous, meritless motion was contrived through collusion on the part of CSAA and the court conspiring to establish a finding of al-Hakim as filing frivolous, meritless motions to substantiate their planned filing of the vexatious litigant proceedings as revealed at a hearing by judge Colwell. Court administration, CSAA and the City of Oakland have also participated in judge Clay's failed two vexatious litigant proceedings with defendants Interserver and Equinix. Further, defendants have NOT served their latest alleged judgment so that al-Hakim can file his opposition and motion to tax costs as defendants and Green Key Investments has failed and refused to provide ANY documents to al-Hakim relative to the alleged sell of the home; the advertising of the sell prior to the sell; the recorded bids; amount of sell; the buyer(s); the Trustee of the sell; the escrow account including disbursements; the transfer of property title; the payment of any indebtedness, back taxes, liens, judgments on title of property; ANY AND ALL DOCUMENTS RELATED TO THE SELL OF THE HOME SINCE DEFENDANTS OWNED IT. al-Hakim has had at least eight different groups of people inform him that they were the buyers of the home.

2. Plaintiffs' Costs Have Not Been Trivial

On the plaintiffs' side, the cost of maintaining this action for 20 years has not been trivial, IT HAS COST THEM EVERYTHING!! It has been continued at the cost of extreme hardship. Thus it could not be said that the pain was disproportionately felt by defendants as opposed to plaintiffs. The true victims here have been al-Hakim, his family, their businesses, their business, real and personal property, his community and his clients they serve in a plethora of irreparable ways. The state, defendants and entities are the vexatious litigant, not the family. The case was maintained in the face of enormous personal obstacles. All of al-Hakim's past earnings, savings, retirement, home, assets and resources have been sacrificed, because this case is so important to

them. To date he estimates the costs has been over $500,000 on personal, attorney, professional, expert and others fees and costs, at unimaginable hardship to them. al-Hakim's true costs are inestimable! Mr. al-Hakim has given up all his personal time over these 20 years, which could have been used to earn money. a-Hakim is homeless, receiving social service benefits. The al-Hakim's has had to defend themselves against this VENDETTA, malicious prosecution for 20 years and have been publicly maligned. It would be hard to argue that they have not been inconvenienced in the course of pursuing justice, merely to insincerely harass and punish the defendants at ALL costs to themselves. That would hardly be worth anyone's time, resources and energy.

The courts, defendants' law firms and entities have virtually limitless resources. It is a mismatched contest. Plaintiffs have never complained about their burden because this case is important, not frivolous, to them.

III. BRAND AND DEFENDANT''S REQUEST FOR JUDICIAL NOTICE OF VARIOUS IRRELEVANT COURT FILES SHOULD BE DENIED

The court and defendants finished their motions with a request for various court files to be noticed, such as Green Key Investments v. Al-Hakim, RG 18-927213. Brand should not have granted/issued his own request. This is a case where al-Hakim is a defendant and NOT subject to evidence of any vexatious litigant actions therein, so merit is NOT an issue, BUT the case is proof of Brands fraud and corruption. Thus merit or frivolousness is NOT a consideration!

As stated, al-Hakim waited to receive the order after the hearing on February 25, 2019, on the default taken and issued against Green Key in the motion to vacate the illegal default unlawful detainer order taken against al-Hakim, but it has NOT been served to date.

Judicial Notice of Register of Actions, Brand admits fraud then attempts to wash it away

al-Hakim request Judicial Notice of the Complaints referenced herein.

al-Hakim has filed numerous complaints for the judges and Department 511 Court Administration History of Perverting Obstructing Justice, or the Due Administration of the Laws in several al-Hakim cases. (**see** The Register of Actions Is Evidence of the Manipulation of the Record and Register of Actions; Criminal Conduct In Violation of The Law, al-Hakim Declaration at Page 77-84; and **2/25/19 Brand Challenge at ¶¶ 29-37, Page 43-45)**

The judges, clerks, and court administration have committed multiple acts of misconduct involving moral turpitude, referring to their various falsehoods, alterations and acts of falsifying

court documents and concealing the acts are moral turpitude, and are a flagrant deviation from professional standards that cannot conceivably come under the protection as an officer of the court! Such a rampant course of misconduct and deceit fully warrants censure and disbarment. Multiple acts of misconduct involving moral turpitude and dishonesty warrant disbarment. (See std. 2.3, Stds. for Atty. Sanctions for Prof. Misconduct, div. V, Rules Proc. of State Bar; compare Dixon v. State Bar (1982) 32 Cal.3d 728, 739, 740 [187 Cal. Rptr. 30, 653 P.2d 321].) Petitioner's pattern of serious, recurrent misconduct is a factor in aggravation. (Garlow v. State Bar (1988) 44 Cal.3d 689, 711 [244 Cal. Rptr. 452, 749 P.2d 1307].)

al-Hakim contends and Brand admits that Brands and Defendants' request for judicial notice of Register of Actions must be denied for failure to state relevancy and failure to provide accurate information. A precondition to taking judicial notice is that the matter is relevant to an issue under review. (People ex rel. Lockyer v. Shamrock Foods Co. (2000) 24 Cal.4th 415,422; see also Gbur v. Cohen (1979) 93 Cal.App.3d 296,301.)

Brand has admitted in his tentative ruling and now order to he and his clerks fraud on the court with the of Register of Actions and exhibits thus they fail to provide legally correct, truthful, accurate information and sought to correct it, BUT THAT DOES NOT ERASE THE FRAUD ON THE COURT! Plaintiff cites *Ragland v. US. Bank Nat. Assn.* (2012) 209 Cal.App. 4th 182, 194 for the proposition that while a court may take judicial notice of the existence of websites and blogs, it may not accept their contents as true. Plaintiff also invokes Cal. Evid. Code 452(h),which states: "Facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy."

Here, the website of Alameda County Superior Court case information has clearly been fabricated and altered MANY times, and the information is admittedly the product of fraud, and incorrect as noticed in many complaints listed in this document, Brand and the Defendants' relying on the register of actions and dockets to show the contents of the docket appearing on the website does not conform to Evidence Code Section 452(h) and the case laws.

The judges, clerks, and court administration have committed multiple acts of misconduct involving moral turpitude, referring to their various falsehoods, alterations and acts of falsifying court documents and concealing the acts are moral turpitude, and are a flagrant deviation from

professional standards that cannot conceivably come under the protection as an officer of the court! Such a rampant course of misconduct and deceit fully warrants censure and disbarment. Multiple acts of misconduct involving moral turpitude and dishonesty warrant disbarment. (See std. 2.3, Stds. for Atty. Sanctions for Prof. Misconduct, div. V, Rules Proc. of State Bar; compare Dixon v. State Bar (1982) 32 Cal.3d 728, 739, 740 [187 Cal. Rptr. 30, 653 P.2d 321].) Petitioner's pattern of serious, recurrent misconduct is a factor in aggravation. (Garlow v. State Bar (1988) 44 Cal.3d 689, 711 [244 Cal. Rptr. 452, 749 P.2d 1307].)

Judicial notice does not establish the truth of statements or allegations in the records or factual findings that were not the product of an adversary hearing involving the question of the existence or nonexistence of said facts. (See Lockley v. Law Office of Cantrell, Green, Pekich, Cruz &McCort(2001) 91 Cal.App.4th 875, 882; see also see also Kilroy v. State of California (2004) 119 Cal.App.4th 140, 145-148; People v. Long(1970) 7 Cal.App.3d 586,591.)

Brand MUST suppress the evidence of the register of actions and exhibits instead because admittedly the record was not made properly; in other words, that the employee or agency did not have a statutory duty to perform the act or record the data, or that something untoward happened in the preparation of this particular record. Brand can not object because he must prove that the presumed fact did not happen *People v. Martinez* (2000) 22 C4th 106, 91 CR2d 687, 990 P2d 5631 . (1-15 MB Practice Guide: CA E-Discovery and Evidence 15.26)

Plaintiff has not undertaken any effort to call attention to the relevance of these court files and believes once again notice of these extrinsic records is being requested as a zealous bad faith effort to inflame the acrimony and continuing calumny deceit of the court to improve their position. Brand has done nothing, for example, to show why the records of the Green Key matter, should be any more relevant to this lawsuit than the records of, al-Hakim as the defendant in MILLER VS HAKIM, Alameda County Superior Court Case No.: OCV0574030, that al-Hakim filed several challenges, gained a recusal, has an appeal pending for two years now against Presiding court Judge Wynne Carvill in that matter, and al-Hakim won the case after 25 years of fighting, or anyone else in this case.

The request for judicial notice of Brand and the defendants suffers from the same host of problems that all the courts and defendants' other RJN's suffer from. The court and defendants are attempting to improperly influence this court in the pleading with vague, conclusory, disputed and inadmissible hearsay to insert factual defenses that have no relevance in the proceedings.

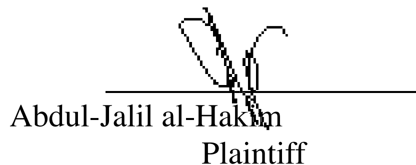
A litigant must demonstrate that the matter as to which judicial notice is sought is both relevant to and helpful toward resolving the matters before this court. (*Jordache Enterprises, Inc. v. Brobeck, Phleger & Harrison* (1998) 18 Cal.4th 739, 748, fn. 6, 76 Cal.Rptr.2d 749, 958 P.2d 1062.) and whether they have raised a triable material issue of fact. (*Dawson v. Toledano* (2003) 109 Cal.App.4th 387, 392, 134 Cal.Rptr.2d 689.

CONCLUSION

To extend the "vexations litigant" rule to the al-Hakim's case would mean expanding the boundaries of the statute dangerously beyond anything the legislature could possibly have imagined and would result in a chilling effect upon *pro per* representation and a dangerous expansion of restrictions on due process. The court should deny it's own motion to determine the plaintiff as vexatious litigant, deny their request for a pre-filing order or undertaking, and apply sanctions for filing a frivolous motion in bad faith in an attempt to obstruct the proceedings, allowing the plaintiffs to try their case. The court's request for judicial notice should be rejected.

Respectfully submitted,

Date: April 17, 2019



Abdul-Jalil al-Hakim
Plaintiff