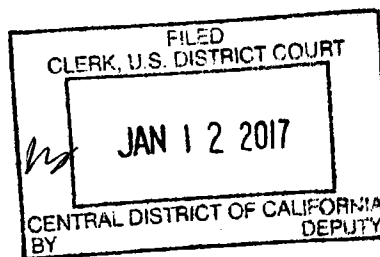


1 Travis Middleton
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3 Santa Barbara, California [93101]
4 Travis_m_93101@yahoo.com
5 (805) 284-6562



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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10 WESTERN DIVISION

11
12 Travis Middleton, et al.,
13 Plaintiff(s),

14 vs.

15 Richard Pan, et al.
16 Defendant(s)

) Incorporated Case No.: 2:16-cv-05224-
) SVW-AGR

)
) PLAINTIFFS' MOTION TO RECUSE
) THE HON. STEVEN V. WILSON

)
) This Application/Motion is filed under the American
) Free Flag of peace of the united states of America. No
) jurisdiction under any American flags of war will be
) accepted in this Case Incorporation

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20 COMES NOW:

21 Plaintiffs, in the above encaptioned matter, Travis Middleton, Eric Durak, Jade
22 Baxter, Julianna Pearce, Candyce Estave, Denise Michele Derusha, Melissa
23 Christou, Andrea Lewis, Rachil Vincent, Don Demanlevesde, Jessica Haas, Paige
24 Murphy, Lori Strantz, Anwanur Gielow, Lisa Ostendorf, JuliaAnne Whitney, Alice
25 Tropper, Bret Nielsen, Brent Haas, Muriel Rosensweet, Marina Read, to move this
26 Court to recuse itself from this action pursuant to 28 U.S.C. §§ 144 and 455(a).
27
28

1 On December 15, 2016, the Magistrate Judge issued a Report and
2 Recommendation (Docket No. 123) that Plaintiffs "RICO" / Civil Rights suit be
3 dismissed with prejudice, with leave to amend within 30 days after the District
4 Judge's Order. Usually, the District Judge follows the Magistrate Judge's
5 recommendations. The Magistrate Judge failed to address Plaintiffs' "RICO" and
6 Civil Rights issues, establishing differential treatment between Plaintiffs who are
7 Pro Se litigants and the professional attorneys representing the government
8 Defendants.

9 In previous cases where this Court has adjudicated "RICO" and Civil Rights
10 actions by Plaintiff Middleton (Case No. 2:15-CV-9818 - Middleton v. Santa
11 Barbara Police Dept. et al; No. CV-07-8089-SVW-AGR - Middleton v. Raul
12 Vasquez, et al.; No. CV-08-8231-SVW-AGR - Middleton v. Raul Vasquez, et al.),
13 this Court has applied the wrong legal standard for dismissal of all the
14 aforementioned cases. The dismissal of Middleton's cases show a bias and
15 prejudice towards Middleton, a Pro Se litigant and the defendants who are city and
16 or county officials. The United States Statutes 42 U.S.C. § 1983 and 18 U.S.C.
17 §§1961, 1962 and 1964 are plain on their face. See Docket Nos. 33 & 32 of Case
18 No. 2:15-CV-9818 attached under **Exhibit A**.

19
20 **FACTS AND LAW IN SUPPORT OF MOTION**

21 **I.**

22 The oath of office that every federal judge takes is:

23
24 Each justice or judge of the United States shall take
25 the following oath or affirmation before performing
26 the duties of his office: " I, _____, do solemnly
27 swear (or affirm) that I will administer justice without
28 respect to persons, and do equal right to the poor and

1 to the rich, and that I will faithfully and impartially
2 discharge and perform all the duties incumbent upon
3 me as under the Constitution and laws of the United States.
4 So help me God."

5 28 U.S.C. §453

6
7 That oath comes to us from ancient precedents. For example: Deuteronomy
8 1:16-17 (quoted in Canons of Judicial Ethics, Black's Law Dictionary, 4th Ed. Rev.
9 LXIX). That oath became one of the Statutes of Westminster in 1275 A.D.

10 Depending upon which authority one cares to believe, Edward I removed either all
11 or all but two of his judges in 1289 A.D. for violations of that statute. The English
12 system that our ancestors fought to abolish appears to mirror our own:

13
14 "Heart-breaking delays and ruinous costs were the lot of suitors. Justice was
15 dilatory, expensive, uncertain, and remote. To the rich it was a costly lottery: to the
16 poor a denial of right, or certain ruin. The class who profited most by its dark
17 mysteries were the lawyers themselves. A suitor might be reduced to beggary or
18 madness, but his advisors revelled in the chicane and artifice of a lifelong suit and
19 grew rich."

20 *Concise History of the Common Law, by Plucknett (Little Brown & Co. 1956) 5th*
21 *Ed. page 73.*

22 The Judicial Improvements Act of 1990, P.L. 101-650 (18 U.S.C., § 471 et
23 seq.) indicates the same problem is now rampant in our courts. See page 6809,
24 U.S. code Cong. & Administrative News 1990 (legislative history of the Judicial
25 Improvements Act.).

26 As the legislative history of 28 U.S.C. § 471 et seq. points out:

27 "The purpose of this legislation is to promote for all citizens- rich or poor,
28 individual or corporation, plaintiff or defendant- the just, speedy and inexpensive

1 resolution of civil disputes in our Nation's Federal courts." U.S. Code Cong &
2 Admin News, pg. 6804 (1990).

3 The courthouse door rapidly being slammed shut on the middle class in this
4 country is addressed on page 6809. Confidence in the judiciary being sustained and
5 preserved so long as the populace respects individual judges is addressed on page
6 6882.

7 Failure to administer justice without respect to persons, to do equal right, and
8 to impartially discharge duties incumbent upon the court is more than a petty
9 annoyance to the citizen.

10 Violation of a federal judge's oath of office is grounds for impeachment. U.S.
11 Code Cong & Admin. News, pg. 6896 (1990).

12 II.

13
14 What appears to be brewing in the instant case is a dismissal predicated upon
15 the concept of absolute immunity. Plaintiffs have properly plead and argued that no
16 legislative or any other type of immunity extends to a government official who has
17 perjured his or her oath of office to support and defend the united States
18 Constitution. The court is attempting to show the defendants a way out that does
19 not exist. Refusing to address Plaintiffs' legal claims denies Plaintiffs equal access
20 to the court, which constitutes a denial of equal protection of law and denial of due
21 process of law within the mandates of the 14th Amendment.

22 It is unfortunate that the federal courts do not have an automatic preemptory
23 challenge to recuse a judge as many states do. However, there is still statute law to
24 cure the problem, if the court will follow it.

25 Congress, by statute, has outlined the conditions for disqualification of a
26 judge in 28 U.S.C. §455. Section 455 is designed to assure that all parties receive a
27 trial before a judge who is not biased against them, and, if a judge's impartiality
28 might be questioned, disqualification is mandatory. *Beverly Hills Bancorp v.*

1 *Commercial Paper Holders*, 752 F.2d 1334, 1341 (9th Cir. 1984); 32 Am.Jur.2d,
2 Federal Practice and Procedure, section 40. Any judge of the United States shall
3 disqualify himself in any proceeding in which his or her "impartiality might
4 reasonably be questioned". 28 U.S.C. § 455 (a). Or whenever he "has a personal
5 bias or prejudice concerning a party". Id. § 455 (b)(1). Under Canon 3 of the Code
6 of Judicial Conduct, a judge must avoid the appearance of impropriety in all of his
7 activities. In short, Canon 3 defines the ethical boundaries while § 455 outlines the
8 legal boundaries.

9 Congress in 1974 shifted the focus of 28 U.S.C. § 455 in order to promote
10 public confidence in the federal judicial system. See H.R. Report No. 93-1453, 93d
11 Congress, 2d Session (1974), reprinted in U.S. Code Cong. and Admin. News at p.
12 6351 and note 8 at p. 6355. 28 U.S.C. sec. 455 contains two sections that provide
13 for disqualification. The first section is 455(a), which provides that a judge "shall
14 disqualify himself in any proceeding in which his impartiality might reasonably be
15 questioned". The second section is 455(b), which provides for disqualification on a
16 showing of certain facts, e.g., personal bias, pecuniary interest in the case, etc.,
17 without the necessity of demonstrating that those facts establish impartiality.

18 A federal judge is required to take the steps necessary to maintain public
19 confidence in the impartiality of the judiciary. *Liljeberg v. Health Services*
20 *Acquisition Corp.*, 108 S. Ct. 2194, 2203 (1988). At this point, Plaintiffs have no
21 confidence in the judiciary due to the obvious direction this case is headed in the
22 district court. The statute enacted by Congress under 18 U.S.C. §§1961 1962, 1964
23 and 42 U.S.C., § 1983, are plain on their face. The sole function of the court is to
24 enforce the law according to statute. *Caminetti v. U.S.*, 37 S.Ct 192, 194 (1917).
25 Not according to misapplied doctrine.

26
27 WHEREFORE, in order that Plaintiffs may have meaningful access to the courts
28 and due process of law, this court must recuse itself.

1 Respectfully submitted

2 Dated this January 9, 2017

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4 Travis Middleton

5 27 West Anapamu Street No. 153
6 Santa Barbara, California [93101]
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EXHIBIT A

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

TRAVIS MIDDLETON,
Plaintiff,
v.
SANTA BARBARA POLICE
DEPARTMENT, et al.,
Defendant.

NO. CV 15-9818-SVW (AGR)

ORDER ACCEPTING FINDINGS AND
RECOMMENDATIONS OF UNITED
STATES MAGISTRATE JUDGE

Pursuant to 28 U.S.C. § 636, the Court has reviewed the complaint, records on file, and the Report and Recommendation of the United States Magistrate Judge. Further, the Court has engaged in a *de novo* review of those portions of the Report to which Plaintiff has objected. The Court has construed the document entitled "Refusal for Fraud" filed on August 4, 2016 as objections to the Report. (Dkt. No. 30.) The Court accepts the findings and recommendation of the Magistrate Judge.

Plaintiff's objections are without merit and are overruled.

IT IS ORDERED that (1) the motion to dismiss filed by the City Defendants is granted; (2) the motion to dismiss filed by defendant Carter is granted; (3) Plaintiff's motion for judgment on the pleadings or in the alternative for summary judgment is denied; (4) Plaintiff's mandamus petition is denied; (5) the Complaint is dismissed

1 without leave to amend; and (6) judgment be entered dismissing this action without
2 prejudice.

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5 DATED: November 22, 2016



STEPHEN V. WILSON
United States District Judge

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA


TRAVIS MIDDLETON,
Plaintiff,
v.
SANTA BARBARA POLICE
DEPARTMENT, et al.,
Defendant.

NO. CV 15-9818-SVW (AGR)
JUDGMENT

Pursuant to the Order Accepting Findings and Recommendation of United States Magistrate Judge,

IT IS ADJUDGED that this action is dismissed without prejudice.

DATED: November 22, 2016



STEPHEN V. WILSON
United States District Judge

CERTIFICATE OF SERVICE

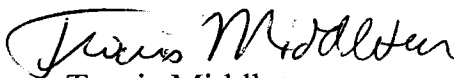
This is to certify that I have on this 9th day of January, 2017 placed a true and correct copy of the:

APPLICANT PARTIES INJURED / PLAINTIFFS' MOTION TO THE COURT TO RECUSE ITSELF in assigned Case Incorporated No. 2:16-cv-05224-SVW-AGR at the below address, or by depositing the same in the U.S. Mails, to DIANE F. BOYER-VINE (SBN: 124182) Legislative Counsel, ROBERT A. PRATT (SBN: 137704) Principal Deputy Legislative Counsel, CARA L. JENKINS (SBN: 271432) Deputy Legislative Counsel Office of Legislative Counsel 925 L Street, Suite 700 Sacramento, California 95814 Telephone: (916) 341-8245 E-mail: cara.jenkins@lc.ca.gov, Attorneys for Defendants Assembly Member Catharine Baker, Assembly Member Richard Bloom, Assembly Member David Chiu, Assembly Member Jim Cooper, Assembly Member Cristina Garcia, Assembly Member Lorena Gonzalez, Assembly Member Reginald Jones-Sawyer, Assembly Member Evan Low, Assembly Member Adrin Nazarian, Assembly Member Bill Quirk, Assembly Member Anthony Rendon, Assembly Member Mark Stone, Assembly Member Jim Wood, Senator Ben Allen, Senator Jim Beall, Senator Marty Block, Senator Kevin de Leon, Senator Robert Hertzberg, Senator Mark Leno, Senator Isadore Hall, Senator Jerry Hill, Senator Hannah-Beth Jackson, Senator Mike McGuire, Senator Holly Mitchell, Senator Richard Pan, Senator Jeff Stone, Senator Bob Wieckowski, Senator Lois Wolk;

To: KAMALA D. HARRIS Attorney General of California, RICHARD T. WALDOW ELIZABETH S. ANGRES, Supervising Deputy Attorneys General; JONATHAN E. RICH (SBN 187386), ELIZABETH G. O'DONNELL (SBN 162453), JACQUELYN Y. YOUNG (SBN 306094), Deputy Attorneys General, 300 South Spring Street, Suite 1702, Los Angeles, CA 90013 Telephone: (213) 897-2439 Fax: (213) 897-2805, E-mail: Jonathan.Rich@doj.ca.gov Attorneys for Defendants Governor Edmund G. Brown, Jr., and the State of California.

AND; To: Marine Pogosyan, Clerk to Magistrate Judge Alicia G. Rosenberg, United States District Court Central District of California 312 North Spring Street Los Angeles, California 90012. Certified Mail No.: 70151730000201215991.

I declare under penalty of perjury that the above is true and correct.


Travis Middleton

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Santa Barbara, California [93101]

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Respectfully submitted,
Travis Middleton
Travis Middleton
Plaintiff, Pro Se

By: *[Signature]*

By: *Eric Durak*
Eric Durak
Plaintiff, Pro Se

By: *Jade Baxter*
Jade Baxter
Plaintiff, Pro Se

By: *Juliana Pearce*
Juliana Pearce
Plaintiff, Pro Se

By: *Candyce Estave*
Candyce Estave
Plaintiff, Pro Se

By: *Denise Michele Derusha*
Denise Michele Derusha
Plaintiff, Pro Se

By: *Melissa Christou*
Melissa Christou
Plaintiff, Pro Se

By: *Andrea Lewis*
Andrea Lewis
Plaintiff, Pro Se

By: *Rachil Vincent*
Rachil Vincent
Plaintiff, Pro Se

By: *Jessica Haas*
Jessica Haas
Plaintiff, Pro Se

By: *Paige Murphy*
Paige Murphy
Plaintiff, Pro Se

By: *Lori Strantz*
Lori Strantz
Plaintiff, Pro Se

By: *Anwanur Gielow*
Anwanur Gielow
Plaintiff, Pro Se

By: *Lisa Ostendorf*
Lisa Ostendorf
Plaintiff, Pro Se

By: *Alice Trooper*
Alice Trooper
Plaintiff, Pro Se

By: *Bret Nielsen*
Bret Nielsen
Plaintiff, Pro Se

By: *Brent Haas*
Brent Haas
Plaintiff, Pro se

By: *Muriel Rosensweet*
Muriel Rosensweet
Plaintiff, Pro Se

By: *Marina Read*
Marina Read
Plaintiff, Pro Se

By: *Don Demanlevesde*
Don Demanlevesde
plaintiff pro se



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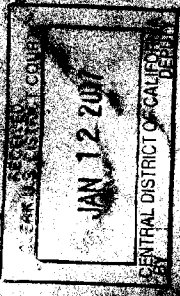


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*1 pair's Middleton
916 27 West Anapamu Street No. 103
Santa Barbara California [93101]*

DKR

*Mr. Hoosyan, Clerk of Court
U.S. District Court in Denver
312 Main Street
Rm 6
Los Angeles CA 90012*

