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6 Attorneys for Plaintiffs and Petitioners

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9
10 COUNTY OF SAN DIEGO — UNLIMITED JURISDICTION

11 FAY STANIFORTH and)
12 MARK STANIFORTH, heirs of)
13 ROBERT STANIFORTH, et al,)

14 Plaintiffs and Petitioners,)
15 vs.)

16 THE JUDGES' RETIREMENT)
17 SYSTEM, administered by the)
18 BOARD OF ADMINISTRATION OF)
19 THE PUBLIC EMPLOYEES)
20 RETIREMENT SYSTEM OF THE)
21 STATE OF CALIFORNIA, and)
22 DOES 1-30,)

23 Defendants and Respondents.)

24 JOHN CHIANG, CONTROLLER OF)
25 THE STATE OF CALIFORNIA,)

26 Real Party In Interest.)
27
28

CASE NO. 37-2012-00093475-CU
MC CTL

STATEMENT AND DECLARATION
OF PAUL G. MAST IN REGARD TO
ATTORNEYS FOR PETITIONERS
AND RESPONDENTS

Date: August 30, 2012
Time: 1:30 p.m.
Dept.: C-66

Judge: Hon. Joel M. Pressman

Complaint Filed: March 8, 2012



STATEMENT AND DECLARATION OF PAUL G. MAST

1 Paul G. Mast hereby makes this Statement and Declaration in regard
2 to the representation of Petitioners and Plaintiffs.

3 **THE BEST INTERESTS OF THE PETITIONERS AND PLAINTIFFS**
4

5 The determination here should be what is in the best interests of the
6 Petitioners and Plaintiffs (Petitioners), not what is necessary to abate the anger,
7 temper, or vindictiveness of one of the attorneys. The Petitioners will be best
8 served by both attorneys working together, as they did from the inception of the
9 case until after the hearing on the demurrer, May 25, 2012. Both attorneys are
10 attorneys of record herein and have associated and formed a partnership to
11 prosecute this case to the best of their abilities in the best interests of the
12 Petitioners. It is true that Jorn Rossi (Rossi) was retained by each of the
13 Petitioners. It is also true that he was retained by each of them on the
14 recommendation of Paul Mast (Mast) and the rendition of Mast of his prior
15 successful claim for COLA benefits. It is correct that Mast anticipated that upon
16 filing the claims and presenting the points and authorities that the claims would
17 be honored. This was not a correct anticipation.

18 It was initially agreed between Mast and Rossi that Rossi would prepare
19 all the claims and anything related thereto. Mast was to provide legal
20 consultation, case development, and legal theory. Mast also purchased the
21 Partnership's WestLaw subscription, CEB books and updates, research services
22 for locating retired judges and heirs of deceased judges, and office supplies, as
23 well as providing computers and related equipment used by the Partnership.
24 After the Association and Partnership, for reasons that need not be gone into
25 here, the duties evolved so that Rossi took care of all client relations, including
26 obtaining retainer agreements and authorizations to obtain the clients' files from
27 JRS, obtaining such files, and all further contact with the clients. Rossi gave the
28 JRS files to Mast to analyze. Mast determined the service records of the clients,
determined what other areas of law were not followed in calculating the benefits
of the clients, designed and had programmed a computer program to calculate

1 unpaid benefits and interest, wrote the points and authorities to accompany the
2 claims, prepared the claims for presentation to JRS. Rossi signed the claims and
3 filed them with JRS.

4 After the passage of about nine months from the date of the original
5 requests for files, not having received any determination (denial) letters from
6 JRS, and no action at all being taken by JRS on any of the claims, Mast and
7 Rossi agreed that they had only one avenue and that was to proceed with the
8 Petition for Writ of Mandate and Complaint for Declaratory Relief (Petition). Mast
9 began drafting the Petition, the Points and Authorities, the Declaration of Paul G.
10 Mast, as well as preparing and assembling the extensive exhibits. While these
11 documents were being written, there was a change in the manager of JRS, and
12 Determination letters started to be received. Mast and Rossi jointly prepared the
13 initial Appeal letter, and thereafter Rossi prepared and sent the appeal letters.

14 The importance of this at this time is that Mast and Rossi had been
15 working in harmony and continued to do so until after the hearing on the
16 Demurrer to the Petition on May 25, 2012. On that date a Status Conference
17 was to be heard. Judge Strauss placed the Status Conference off Calendar and
18 instructed that it be re-calendared in about a month after Judge Pressman
19 returned from his illness. In due course, Mast obtained a date for the Status
20 Conference of July 13, 2012.

21 Mast began working on the Motion for Issuance of the Writ of Mandate
22 and Judgment on the Complaint for Declaratory Relief (Motion for Writ)
23 immediately after the hearing on the demurrer. Copies of all Mast's drafts were
24 emailed to Rossi. (Rossi informed Mast that he never read any of his emails
25 after the demurrer hearing.) Mast determined that because the nature of the
26 case involved legal issues needing to be determined before a final accounting
27 could be prepared, because the benefits and interest continued to increase with
28 the passage of time (not the least of which is a new COLA adjustment period that
occurred July 1, 2012, the amount of which could not be anticipated when the
original claims were filed), and also because one of the parties might undertake
appellate procedures, that it was necessary for the court to approve a procedure

1 to expeditiously proceed with the case. (The suggested procedure was referred
2 to in Mast's original Statement and Declaration and will be discussed further
3 below.) The propitious time for this would be at the Status Conference.

4 Mast sent the following email to Rossi:

5 Paul Mast [REDACTED]
6 STATUS CONFERENCE STATEMENT AND BRIEFING SCHEDULE
7 June 25, 2012 7:36 AM

8 HI JORN AND BILL,
9 LAST NIGHT I STARTED ANALYZING THE ANSWER ALONGSIDE OF
10 OUR PETITION (I WILL GET AN OUTLINE TO YOU LATER TODAY OR
11 TOMORROW).

12 THERE IS A LOT MORE TO ADDRESS THAN I ANTICIPATED.
13 I HAVE CHANGED MY OPINION AS TO THE STATEMENT. INSTEAD OF
14 PUTTING PROPOSED BRIEFING DATES IN IT, I AM NOW THINKING
15 THAT WE SHOULD JUST STATE THAT DATES SHOULD BE SET. THIS
16 WILL GIVE US UNTIL JULY 13TH TO SEE HOW WE ARE COMING
17 WITH THE WORK AND IF WE ARE GOING TO NEED MORE TIME THAN
18 JULY 27 TO GET OUR PAPERS DONE.

19 LET ME KNOW WHAT YOU THINK, AND JORN YOU CHANGE THE
20 STATEMENT ACCORDINGLY.

21 PAUL

22 The importance of this is that it is necessary for the best interests of
23 Petitioners that the case progress expeditiously. The necessity involves the
24 advanced age of most of the Petitioners. If the matter had been heard at the
25 Status Conference, the Motion for Writ would have been set for hearing probably
26 in October. If the *Ex-parte* Motion (which sought the same determination from
27 the court) originally set for August 22, 2012, had not been placed off calendar,
28 then the Motion for Writ would have been heard November 30, 2012, a date
reserved with Grachelle. As it presently stands, the Motion for Writ will not be

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STATEMENT AND DECLARATION OF PAUL G. MAST

JRS-A 001516

1 heard until January and maybe much later. This delay is not in the best interests
2 of the Petitioners, and should have been considered by Rossi before he took the
3 actions he did.

4 Nevertheless, Mast is still willing and anxious to continue proceeding with
5 the case with Rossi. Mast refers the Court to the three suggested orders at the
6 end of his initial papers herein. Mast has always taken a conciliatory approach to
7 Rossi, with the hope that he would act responsibly for the good of the Petitioners.

8 **Paul Mast** [REDACTED]
9 Resolving our issues
10 June 18, 2012 3:33 PM

11 Hi Jorn,

12 [Redacted]

13 JORN, PLEASE PUT YOUR ANGER ASIDE. CALL ME AND LETS WORK
14 THE ANGER OUT SO THAT WE CAN WORK FOR OUR PETITIONERS,
15 NOT DO THINGS THAT WILL HURT THEIR CASE.

16 IF YOU CANNOT TALK TO ME, I WOULD SUGGEST THAT WE HAVE
17 THE SITUATION MEDIATED. In this regard I would suggest we request the
18 help of [Redacted]. He is knowledgable about the case and the situation.

19 Also, I will tell you he is not a ringer. I have not seen him for over 55 years.
20 He was two years ahead of me at Stanford, and although I think we knew of
21 each other, we never had a class together, we never had a social
22 relationship, and I do not think we ever even spoke to each other.

23 By copy of this letter, I am requesting that [Redacted] phone you and set up
24 some type of meeting in [Redacted].

25 Time is important, our next major pleading is our Notice of Motion. This is
26 the pleading to proceed to the final hearing. I expected to have this
27 prepared by this time, however all this problem of your anger has interfered
28 with my preparation and has severely hampered me.

Paul

GENESIS OF THE CURRENT PROBLEM

1 At the outset Mast wishes to state to the Court that he has never had a
2 problem with Rossi. He has never been angry with Rossi, has never
3 communicated detrimentally with opposition counsel about Rossi, and has never
4 told opposition counsel not to deal or communicate with Rossi. The emails
5 attached to the initial submission by Mast for this problem clearly show that Mast
6 was at all times conciliatory with Rossi. Rossi said in Court that the problem was
7 Mast's tantrum. There never was any tantrum by Mast. The most that can be
8 said about Mast is that he is very disappointed that Rossi has injured the
9 relationship between them, but more importantly that Rossi has taken actions
10 that have seriously injured Petitioners in this case.

11 Mast and Rossi have a long and agreeable relationship going back at least
12 to the early 1990's. Mast remembers representing Rossi in a business case. At
13 the time Rossi was not practicing law. Although Mast cannot remember any
14 details, he thinks there was a prior relationship with Rossi. When Mast stopped
15 practicing law in 1995, he referred one or more clients to Rossi. Periodically
16 throughout the years Rossi would call Mast for advice on a case. Sometimes
17 Mast discussed legal theory, other times legal procedure. When Rossi and his
18 wife planned to marry, Rossi asked Mast to perform the ceremony, which he did
19 in June 2000, on the beach in Newport Beach, California.

20 So what happened? Mast has thought about this extensively and has
21 examined all the emails between Mast and Rossi, including the timing thereof,
22 and has come to the conclusion that Rossi's actions have nothing to do with this
23 case before the Court. It has to do with what Mast and Rossi called the "Abe
24 Case."

25 Rossi represented Abe both as an attorney in business matters and as a
26 real estate broker in real estate transactions. When a particular real estate
27 transaction was cancelled, Rossi determined he had a right to his commission
28 from Abe. When Rossi wanted assistance he requested that Mast write a letter
to Abe demanding payment and told Mast that Abe was certain to pay. Mast did
write the letter and Abe did not pay. Thereafter Rossi determined that a suit

1 should be filed with Mast as his attorney and told Mast that upon being sued, Abe
2 was certain to pay. The suit was filed. (Mast believes that Rossi wrote the
3 complaint.) Instead of paying, Abe obtained representation. Mast had no
4 intention of being paid by Rossi for this although Rossi did say later that he would
5 pay Mast one-third of the recovery.

6 Very shortly after serving the Complaint, extensive discovery was received
7 from Abe's counsel. This led to the following email:

8 **Paul Mast** <[Redacted]>
9 ABE [Redacted]

10 April 11, 2012 10:31 PM

11 HI JORN,

12 LET'S TALK TOMORROW ABOUT THE ABE CASE. [Redacted]
13 THE OTHER THING THAT I WANT TO TALK TO YOU ABOUT IS THE
14 DISCOVERY. ON THE NOTICE TO PRODUCE, YOU SAID THAT WE SHOULD
15 OBJECT TO THE IRRELEVANT MATTERS SUCH AS YOUR LEGAL
16 REPRESENTATION. I HAVE A DIFFERENT OPINION, HOWEVER MY
17 OPINION IS BASED UPON IGNORANCE. I DON'T KNOW WHAT IS
18 DISCOVERABLE AND WHAT IS NOT. I DO KNOW THAT IN THIS DAY AND
19 AGE, IF WE MAKE AN IMPROPER MOTION, WE WILL BE SANCTIONED.
20 DISCOVERY PRACTICE AND THE RULES THAT APPLY HAVE CHANGED
21 AND DEVELOPED GREATLY THROUGHOUT THE YEARS. WHEN I FIRST
22 PRACTICED LAW IN THE 1950'S, IT WAS PRETTY MUCH NON-EXISTENT.
23 VERY LITTLE - DEPOSITIONS VERY RARELY. EVEN WHEN I WAS ON T HE
24 COURT, THE PRACTICE WAS LIMITED. NOW IT IS A MAJOR PART OF A
25 CASE, AND CLEARLY ABE'S LAWYERS ARE GOING TO BE VERY
26 AGGRESSIVE IN THIS MANNER. WE HAVE TO BE JUST AS AGGRESSIVE.
27 IT'S ONE THING TO BE RIGHT ON THE LAW, BUT WE DO NOT WANT TO BE
28 OUT MANEUVERED, WHICH I THINK IS A DANGER.

1 [Redacted]

2 PAUL

3
4 Sometime between April 11, 2012 and April 22, 2012, Mast told Rossi that
5 he should not be the one to represent Rossi on this case. Mast had recently
6 attended a Stanford function hoping to meet a lawyer who could represent Rossi.
7 Mast then offered to speak about Rossi's case with a particular lawyer in Irvine
8 with a long history of litigation and extensive participation with the Trial Lawyers
9 Association. Mast told Rossi that Mast thought that the lawyer would represent
10 Rossi for the same one-third that Rossi was going to pay Mast.

11 From: Paul Mast [REDACTED] >
12 To: Rossi ESQ Rossi <lawrossi2000@yahoo.com>
13 Sent: Friday, April 13, 2012 3:01 PM
14 Subject: Meeting

15 I went to an initial meeting of an OC alumni chapter of my law school last
16 night. I met some attorneys which we might be able to use if we so
17 choose. One you might look up is [redacted].

18 Rossi rejected this saying he had plenty of friends who could represent him.

19 The following emails were then sent:

20 **Jorn S. Rossi ESQ <lawrossi2000@yahoo.com>**
21 **I APOLOGIZE TO YOU**
22 **April 21, 2012 8:44 AM**

23 [all redacted except the following]

24 I WAS MAD THEN, DISAPPOINTED NOW THAT YOU ARE NO LONGER
25 WILLING TO REPRESENT ME ON ABE'S CASE. WHILE YOU MAY
26 NEVER HAVE HEARD OF FORM INTERROGATORIES AND SAY YOU
27 KNOW NOTHING ABOUT CIVIL DISCOVERY, I DO. WHAT AM I
28 CHOPPED LIVER?

1 **From:** Paul Mast [REDACTED] <[REDACTED]>
2 **To:** Rossi ESQ Rossi <lawrossi2000@yahoo.com>
3 **Sent:** Sunday, April 22, 2012 12:19 PM
4 **Subject:** ABE CASE
5
6 HI JORN,
7 LET'S REVISIT THE ABE CASE.
8 I HAVE BEEN WORKING ON OUR CASE EVERY DAY WELL INTO THE
9 EVENING. I HAVE A BACK-LOG OF THINGS TO DO.
10 1) PREPARE THE REQUEST FOR PROD OF DOCS AND THE
11 REQUEST FOR ADMISSIONS.
12 2) I HAVE 4 OR 5 EMAILS TO WRITE TO REPPY ON THE VARIOUS
13 ISSUES.
14 3) I HAVE TO PREPARE THE NEW CLAIMS.
15 4) [Redacted].
16 5) I CONTINUE TO WORK WITH NADDIA ON THE [Redacted].
17 6) [Redacted]
18 7) I HAVE A NUMBER OF SPECIAL LETTERS TO WRITE TO
19 PROSPECTIVE CLIENTS WHERE THERE ARE SPECIAL
20 CIRCUMSTANCES.
21 8) I HAVE TO BE READY NEXT THURSDAY TO REPLY TO THE DEMUR
22 THAT MAY COME. I OF COURSE WILL BE WORKING WITH REPPY ON
23 THIS, BUT I MUST DO THE RESEARCH ALSO.
24
25 ON THE ABE CASE, I DO NOT THINK YOU ARE GEHAKTA LEBER. IF
26 YOU DO ALL THE DISCOVERY AND PLEADINGS, THEN THIS IS
27 GOOD.
28 I FEEL VERY INADEQUATE IN DISCOVERY AND DO NOT LIKE TO DO
 SOMETHING IN LAW THAT I HAVE NOT MASTERED.

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STATEMENT AND DECLARATION OF PAUL G. MAST

JRS-A 001521

1 I KNOW THE LAW YOU SEND IS CORRECT, BUT I ALSO KNOW
2 THERE ARE OTHER CASES THAT HAVE TO BE STUDIED AND
3 DISTINGUISHED - THERE ALWAYS ARE. I AM CERTAIN WE WILL
4 LEARN ABOUT THEM FROM THE OTHER SIDE.
5 I AM 80 YEARS OLD, AND DO NOT WANT TO GO TO COURT, HAVE
6 TRIALS, OR LITIGATE.
7 FOR TACTICAL PURPOSES, IT IS NECESSARY TO INVOLVE THE
8 OTHER BROKER AND THE OWNER - I DEFINITELY DO NOT WANT TO
9 REPRESENT THEM.
10 YOU SAID YOU HAD A NUMBER OF FRIENDS WHO WERE
11 COMPETENT TO TAKE OVER THE CASE. PART OF WHAT I WAS
12 THINKING WAS, IF YOU COULD GET EXPERT REPRESENTATION
13 AND IT DID NOT COST YOU ANY MORE, WHY WOULD YOU WANT ME
14 INVOLVED? WHEN YOU THOUGHT IT WOULD BE AN EASY
15 SETTLEMENT, THAT WAS ONE THING. THAT DOES NOT APPEAR TO
16 BE WHAT IS GOING TO HAPPEN. WE DO NOT KNOW WHY, BUT IT IS
17 PROBABLY BECAUSE THE LAWYER HAS CONVINCED ABE THAT HE
18 CAN WIN THE CASE. EVEN IF HE CANNOT WIN IT, THE LAWYER
19 WINS - SO THE LAWYER IS MOTIVATED.
20
21 TELL ME WHAT YOU WANT TO DO AND WE WILL DO IT.

22
23 PAUL

24
25 **Jorn S. Rossi ESQ <lawrossi2000@yahoo.com>**

26 Re: ABE CASE

27 April 23, 2012 10:02 AM

28 LETS NOT REVISIT IT. XXX

1
2 During April 2012, and thereafter, Rossi seems to have had an intemperate
3 attitude. This is shown by two other emails. Since they are very inflammatory, I
4 will show them *in camera* if the Court desires.

5
6 **RELATIONSHIP OF ROSSI AND MAST**

7 In his declaration, Rossi says sometimes that he "hired" Mast to work on
8 this case and at other times that there was an agency relationship. These
9 theories are fictions and untrue, invented so that he could eliminate Mast from
10 the case. The truth is that Mast and Rossi entered into a partnership to
11 associate to pursue these cases. They discussed the split of the fees, and Rossi
12 asked Mast what his part would be. Mast told him half-and-half and Rossi was
13 delighted. This was always agreed to and confirmed by the parties, until Rossi
14 for his own purposes started to try to eliminate Mast.

15 At the inception of the partnership, an agreement was entered into between
16 Mast and Rossi, as stated in the initial Declaration filed by Mast. The parties
17 agreed that if either of them wanted the agreement in writing at anytime, that they
18 would put it in writing. During the meeting between the parties to prepare Rossi
19 for the Status Conference, Mast told Rossi that he needed the agreement put in
20 writing. Mast gave Rossi a copy of an agreement to sign. Rossi took it with him
21 and later told Mast he did not want to sign it. Mast asked him a number of times
22 to sign an agreement. As late as the first week in August 2012, he stated that he
23 would sign the agreement after the hearing on the Motion to Issue the Writ. This,
24 of course was not acceptable, as at that time he could just decide again he did
25 not want to sign it.

26 The agreement is shown by many emails:

27 From: Jorn S. Rossi ESQ <lawrossi2000@yahoo.com>

28 To: Rieger Jeffrey R. <jrieger@reedsmith.com>

Sent: Tuesday, April 3, 2012 12:09 PM

Subject: STANIFORTH V. THE JUDGES' RETIREMENT SYSTEM

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APRIL 3, 2012

DEAR MR. RIEGER: I HAVE ASSOCIATED RETIRED JUDGE PAUL MAST IN THE ABOVE REFERENCED ACTION. PLEASE COMMUNICATE WITH JUDGE MAST REGARDING PROCEDURAL ISSUES RELATED TO THIS ACTION. THANK YOU. JORN S. ROSSI

Jorn S. Rossi ESQ <lawrossi2000@yahoo.com>
Re: [Redacted]

April 5, 2012 7:49 PM

GREAT NEWS. ONE OF OUR [emphasis added] BIGGEST. ARE YOU KIDDING? WOW WEE. HOW NICE. WONDERFUL. SUCH A FAMILY. WONDERFUL DAD, HIS SONS LOVED HIM, WAS JUDGE. SAID HE HAD A WONDERFUL LIFE. NOW HIS TWO SONS ARE A "ON THE BENCH NOW [redacted]" GREAT NEWS YOU ARE ABLE TO KEEP-ON-KEEPING ON. XXX

Jorn S. Rossi ESQ lawrossi2000@yahoo.com

On Apr 13, 2012, at 3:18 PM, "Jorn S. Rossi ESQ" <lawrossi2000@yahoo.com> wrote:

WE [emphasis added] DON'T NEED MORE ATTORNEYS. WHEN THE MONEY COMES WE NEED SECRETARYS, CHAUFFEURS, PILOTS, AND VACATION PLANNERS. CAN'T TRUST AN ATTORNEY. THEY RUN OFF WITH YOUR BUSINESS. WE HAVE TO KEEP IT GOING UNTIL [redacted] . JUST SEVEN TO EIGHT MORE YEARS.... LOVE XXXX

1 [It must be noted here that my email about hiring an attorney was for the
2 Abe case, but Jorn misunderstood it to mean the underlying case. It shows
3 his confirmation, that WE are in the case as partners and together.]

4
5 From: Paul Mast [REDACTED] >

6 Subject: Your letter - Personal

7 Date: June 17, 2012 9:40:04 AM PDT

8 Jorn,

9
10 Please consider that the additional fee on [redacted] will be 10 to 20
11 [redacted]. This is at least 5 [redacted] in YOUR pocket.

12
13 Our fee on [redacted] will be 36 [redacted]. This is 18 [redacted] in YOUR
14 pocket.

15
16 In addition, there are more potential fees for [redacted]. How much I don't
17 know, but it will be [redacted].

18
19 Please don't let this all be destroyed.

20
21 Paul

22
23 Jorn S. Rossi ESQ <lawrossi2000@yahoo.com>

24 [redacted]

25 March 30, 2012 3:13 PM

26 PAUL - HOW FUNNY. WE [emphasis added] ARE GETTING EVERYBODY
27 NOW. [redacted] XXXX
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Also consider the section below in regard to the hiring of William Reppy, Jr. We are jointly hiring him to work with us, and he will be paid by us jointly out of OUR first fees.

From: Paul Mast <[Redacted]>
Subject: Your letter #2
Date: June 17, 2012 9:35:41 AM PDT
To: JON ROSSI <lawrossi2000@yahoo.com>, [Redacted]

Hi Jorn,

I did not mention that it is essential we file our Status Conference Statement this week. The reason is it must be accompanied by a Motion to Amend, which is an alternative in the likely event that the Court does not allow our request to apply the principles of the Legislature v. Eu case without amending. This amendment must be done in a manner that it does not put off the consideration of our hearing on the Petition. I have two ideas how this can be done, but we need to discuss it, along with Bill.

Have in mind, that we have the Adams case and the Legislature case because I did research on the 3 felony judges and found the Adams case. This is an example of why we must work together.

Also, it was my work that found the potential military benefits and unification issue.

1 Please Jorn, for the good of our Petitioners, let's put this behind us and
2 reconcile.

3
4 Paul

5
6
7 **COURT APPEARANCE – AUGUST 17, 2012**

8
9 At the hearing on August 17, 2012 Rossi said several things in regard to
10 Mast that were intentionally untruthful.

11 **EX-PARTE MOTION**

12 The first related to the *Ex-parte* motion that Mast presented to the Court and
13 which had been calendared for August 22, 2012. The Court has placed that
14 motion off calendar. Rossi stated that he and Mast had never discussed the
15 subject matter of the motion, he knew nothing about it, and Mast was completely
16 wrong in presenting an off-the-wall or errant motion [not his exact words] to the
17 court.

18 The truth is that the subject matter as well as the actual words of the motion
19 were discussed many times and agreed to by both attorneys as essential to bring
20 before the Court. Mast is attaching (Attachment 1), emails dated June 10, 2012,
21 June 20, 2012, and June 24, 2012. (The June 10, 2012 email has two
22 attachments, one of which is redacted.) After these emails discussed and asked
23 for input on presenting to the Court the following matters for determination. They
24 are attached because not only do they each say the same thing, they discuss
25 something that Rossi stated to the Court on August 17, 2012 that he had not
26 even heard of before.

27 The essence of these emails is as follows. This case concerns unpaid
28 retirement benefits and interests due to Petitioners from the Respondent. The
amount due depends on the resolution of the legal issues presented to the Court.
The final accounting necessary to be prepared prior to a Writ of Mandate being

1 issued can only be done after the Court has ruled on the legal issues to be
2 considered at the hearing. [These are the additional issues that Respondent has
3 designated as peripheral issues.] In addition, the accounting prepared with the
4 original claims must be updated for the passage of time. Those claims were
5 prepared anticipating the amounts that would be due with the passage of time,
6 but only through June 2012, as at the time of their preparation the annual CPI for
7 2011 had not yet been calculated.

8 It is necessary therefore, and was requested in the *Ex-parte* motion that
9 the Court make a determination of the issues on the Complaint for Declaratory
10 Relief, and thereafter, either as soon as the time for appeal has passed, or if one
11 of the parties seeks an appellate proceeding of all or part of the Court's ruling,
12 then when the matter is finally determined in the appellate process, the
13 Petitioners will prepare the updated accounting and claim. To do otherwise
14 would require Petitioners to prepare updated claims now, which in turn would
15 require the Respondent to analyze and respond to each claim now, and which
16 would require the Court to analyze and rule on each individual claim at this time.
17 Then should the Court not rule in Petitioners favor on each and every claim, new
18 claims would again have to be prepared by Petitioners followed by the same
19 analyses and rulings by Respondent and the Court as above. In the event one of
20 the parties seeks relief from the appellate process, the process would have to be
21 repeated a third time. Even if the appellate process upheld every part of this
22 Court's judgment, the additional passage of time would require additional
23 accountings. This extended, cumbersome, and unnecessary process can be
24 eliminated by the Court making its determination on the Complaint for
25 Declaratory Relief, maintaining jurisdiction of the Petition for Writ of Mandate,
26 and the following procedure being followed at the appropriate time.

27 The Petitioners and Plaintiffs will submit each accounting claim on an
28 individual basis to the Respondents and Defendants. The Respondents and
29 Defendants will make any objection to the accounting or any part of the claim in
30 writing to Petitioners and Plaintiffs, within 30 days of receiving the particular
31 accounting and claim. The accounting and claim for each Petitioner and Plaintiff

1 will be submitted and considered individually. At any time after 30 days from the
2 receipt of each accounting and claim by Respondents and Defendants, the
3 Petitioners and Plaintiffs may apply to the Court for a Writ of Mandate on that the
4 claim of the individual Petitioner.

5 In addition to the above, the *Ex-parte* motion included a motion that the
6 parties be precluded from citing the opinion in any non-existing case. [The
7 validity of this motion will not be discussed here.] Mast and Rossi discussed the
8 necessity of this motion and agreed to make it.

9 NOTICE OF INTENT TO CITE NON-REPORTED CASES

10 At the hearing Rossi told the Court he did not know what Mast was doing.
11 That Mast was completely out-of-line and unauthorized to file any such
12 document. Mr. Rieger stated that he received the Notice, but that he did not
13 receive any Motion to cite Superior Court cases. The Notice pertained to citing
14 the San Diego Superior Court case of Dennis Adams v. JRS, and the Los
15 Angeles Superior Court case of James "J.D." Smith v. JRS (concerning military
16 benefits).

17 As to Rossi's statement that he had never heard about this and it was
18 inappropriate, the matter was discussed several times by Mast and Rossi,
19 including an email of July 16, 2012, which includes:

20 "I have the Notification re the non-reported cases ready, and I will send that
21 in for filing and service."

22 Mr. Rieger's statement that he had not received a motion on this is correct.
23 There was not a motion and there need not be a motion. The procedure
24 according to the Court Rules is to give Notice of the Intent to Cite such cases "at
25 the earliest possible time." That was done.

26 The Court should restore the Notice as being valid. It was not necessary
27 for a ruling from the Court, but the Court revoking its tentative ruling thereon,
28 makes the status of the Notice unclear.

1 TEMPER TANTRUM

2 Rossi accused Mast in Court and also in his Declaration of having caused
3 all the problems by his temper tantrums. Mast categorically states to the Court
4 that he has never had a temper tantrum to Rossi in regard to this case or in any
5 other time or matter. The statement of Rossi was a complete untruth and an
6 attempted transference of the cause of these problems. Mast has never raised
7 his voice to Rossi, has never verbally argued with Rossi, and has never acted
8 toward Rossi in any but a conciliatory manner. Mast has been hurt, confused,
9 and disappointed by Rossi in this matter.

10 Mast's conciliatory behavior towards Rossi was exhibited by his very
11 willingly cooperating and working with Rossi, with no qualms and no looking
12 back, when Rossi phoned Mast about June 20, 2012, and informed him that he
13 had appeared in Court on an *Ex-parte* basis and asked that Mast be removed as
14 attorney on this case. He stated that he was refused, and therefore wanted to
15 resume working together.

16 It should be noted that Mast thought Rossi had appeared in this Court, and
17 Mast's reference to this *Ex-parte* proceeding in his initial papers in this matter
18 was on the assumption that it was in front of Judge Pressman. Mast only found
19 out that Rossi had filed a suit against Mast in the San Diego Superior Court, by a
20 reference made in court on August 17, 2012.

21 After that telephone call from Rossi, Mast began working in earnest on the
22 case with Rossi. Rossi insisted that he be the attorney to appear at the July 13,
23 2012 status conference. Mast agreed to that, seeing no reason why a status
24 conference would require the appearance of two attorneys. It turns out that
25 Rossi's phone call and his apparent working with Mast, was all a subterfuge to
26 appear in court on July 13, 2012, and stipulate that he be the sole attorney for
27 Petitioners. This is outlined and discussed in Mast's initial papers.

28 Even worse than this misrepresentation and subterfuge is that Rossi did
not represent the Petitioners at the July 13, 2012 hearing in having the Court
consider the important matters that were necessary to be addressed in order for
Petitioners to file their Motion for Issuance of a Writ of Mandate and Judgment of

1 Declaratory Relief on July 27, 2012. This has worked greatly to the detriment of
2 Petitioners, delaying the resolution of this case for three to four months.

3 As to the conduct of Rossi, Rossi had three verbal temper tantrums
4 towards Mast and at least two by email messages to Respondent's attorney.

5 First, Rossi had a temper tantrum at a meeting on Ortega highway
6 (between Orange and Riverside Counties), where they met for Rossi to deliver
7 some files to Mast. Mast chose to ignore this and just continue on with the case,
8 so there is no written record of this.

9 Second, Rossi had a very major temper tantrum in front of Mast's
10 residence, which is documented by the following email from Rossi to Mast:

11 I APOLOGIZE TO YOU

12 April 21, 2012 8:44 AM

13 APRIL 21, 2012

14 DEAR PAUL: I WANT TO APOLOGIZE TO YOU FOR YESTERDAY. JUST
15 PRIOR TO OUR MEETING [Redacted], AND EVEN THOUGH I
16 PURCHASED NON-REFUNDABLE AIRPLANE TICKETS, WE ARE NOW
17 NOT GOING. I WAS MAD THEN, DISAPPOINTED NOW THAT YOU ARE
18 NO LONGER WILLING TO REPRESENT ME ON ABE'S CASE. WHILE
19 YOU MAY NEVER HAVE HEARD OF FORM INTERROGATORIES AND
20 SAY YOU KNOW NOTHING ABOUT CIVIL DISCOVERY, I DO. WHAT AM
21 I CHOPPED LIVER? ALSO, I WAS NERVOUS AND SO WAS [Redacted]
22 A MEDICAL PROBLEM OF CONCERN TO US [Redacted]. SO I
23 SINCERELY APOLOGIZE TO YOU. SINCERELY. I ALSO DID NOT GIVE
24 TO AN ITALIAN GESTURE. [Redacted]PAUL, AGAIN I SINCERELY
25 APOLOGIZE FOR BEING MAD AND DO BELEIVE IT IS NOT THE TIME
26 FOR BANTER BETWEEN US WITH THE SCHMIDT OPPOSITION AND
27 HEARING NEXT WEEK ALONG WITH THE LONG AWAITED JRS
28 RESPONSE ON WEDNESDAY. [Redacted]XXXX

1 The third, and most extreme temper tantrum by Rossi was that which took
2 place outside the courthouse immediately after the hearing on the demurrer.
3 This is discussed in Mast's initial papers.

4 In writing, he showed his temper tantrum in an email to Respondent's
5 counsel the beginning of the week after the demurrer hearing in which he
6 enclosed a document he had filed in Court pertaining to terminating me as
7 counsel. The second was on June 13, wherein he sent Respondent's attorney
8 an email stating I was fired. These also are referred to in Mast's initial papers.

9 His temper and inappropriate behavior was also shown by his failure to
10 speak on the telephone to Mast or answer (or read) any of his emails between
11 May 25, 2012 (the demurrer hearing) and about June 20, 2012 (the unsuccessful
12 *Ex-parte* motion), except June 11, 2010 and June 12, 2012. We were still on the
13 case together and owed the Petitioners our dedication of working together to
14 proceed with the case.

15 **RESPONSE TO ROSSI'S DECLARATION AND POINTS AND AUTHORITIES**

16 **INTRODUCTION**

17 Mast is totally shocked and dismayed at the Declaration of Rossi, which is
18 almost totally false and untruthful. Mast will attempt to show through evidentiary
19 material the untruthfulness of the statements.

20 **ENGAGEMENT OF WILLIAM REPPY**

21 The engagement of Professor Reppy came about as from Mast's idea and
22 judgment, which was shared with Rossi by Mast and endorsed by Rossi. The
23 following emails show what occurred. They are included not for the substance but
24 to show the misrepresentation of Rossi.

25 Paul Mast [Redacted]
26 Re: MEETING WITH [Redacted]
27 March 9, 2012 12:07 PM
28

1 did not have their benefits adjusted in a timely fashion. Mast wanted this
2 information, so that if Mr. Rieger was correct, then Petitioners could abandon this
3 part of their claim. The information was produced in a timely manner in
4 accordance with the Notice to Produce. The information revealed, that JRS did
5 start making the adjustment on January 1, 1999, but it showed they did not make
6 any retroactive payments. It further showed that the payments were started on
7 the first of the following month, rather than the date of unification. The result was
8 that there were some claims to be made in 17 of the 18 cases in which claims
9 were made, however in a much lesser amount than was originally thought to be
due.

10 Jorn next states that after court on May 25, 2012, he found Mast talking to
11 Mr. Rieger and trying to stipulate to something without his permission. This is
12 completely untrue. The discussion was as follows: Mr. Rieger had been given 30
13 days to answer the complaint. Mr. Rieger knew from prior discussions that we
14 were intending to amend the Petition and Complaint to add the theory of the
15 Legislature case. He understandably did not want to start preparing his answer if
16 we were going to so amend in the interim. My response to him was that we
17 would do nothing that would delay his answer, and he should prepare the answer.
18 Then Rossi came into the conversation, and I told him what Mr. Rieger wanted
and what I replied.

19 Rossi's statement that Mast threw a temper tantrum in the street is
20 absolutely false. Rossi is trying to disguise his bad conduct by making a false
21 allegation against Mast. Mast was happy and satisfied when leaving the
22 courthouse, and had no hostility or ill feelings towards Rossi. Mast and his wife
23 and Bill Reppy had stayed the night at the hotel next door. The three of us were
24 walking towards the hotel. Mast does not remember where Rossi was. Rossi
25 came up beside Mast and started yelling and screaming at him. (This is
26 discussed elsewhere.) Mast never yelled at him, raised his voice to him, or even
27 argued with him. Mast said two things. Mast said he had sent drafts of the
28 Notice to Produce, and had received no reply. Rossi at that time said he had
replied. Mast also said several times that this was not the place to have this

1 discussion and Rossi should calm down and we would discuss things over the
2 weekend. Bill Reppy was present, and Marci came up to Rossi and Mast, and
3 then Rossi pushed her, which was entirely abusive and unacceptable. Rossi was
4 completely out of control. Rossi's face was right up to Mast, and he had spittle
5 coming from his lips.

6 Mast never made stipulations with other counsel, although he did broach
7 the subject of stipulating to the Petitioner's petition in what JRS says are the
8 peripheral issues. (This was never responded to.) This was discussed with
9 Rossi beforehand. Mast never set any dates without the concurrence of Rossi.
10 Mast did ask Rossi to reserve a date for the Motion to Issue the Writ of
11 Prohibition and Judgment of Declaratory Relief. Rossi failed to do this despite
12 his being advised that the longer we waited to reserve a date, the longer it would
13 take to have the hearing. Rossi not doing so, Mast did reserve the date of
14 November 30, 2012 for the hearing on the Motion. When this came up in court,
15 Mr. Rieger stated he had never heard of that date, as well he should not have. It
16 was a reservation. We had not filed our Motion yet. As to the Motion, it was
17 planned that if Rossi had obtained a ruling at the Status Conference on the
18 preliminary matters that must be approved by the Court, and that if he would
19 have served the Motion in regard to amending for the Legislature theory in a
20 timely manner so it could have been heard at the Status Conference, Petitioners
21 would have been able to file their Motion for Issuance of the Writ of Mandate on
22 July 27, 2012 and potentially have a hearing in October. With the delays caused
23 by the current proceeding and by Rossi's conduct, the earliest we will have that
24 hearing is in January. This is a major detriment to Petitioners.

25 It is untrue that Mast threatened Rossi that he would write a letter saying
26 horrible things about him. Rossi had lied to Mast about the results of the Status
27 Conference. He at no time revealed that he had stipulated that Mast should be
28 removed from the case. Mast found out when Mr. Rieger sent him a draft of a
proposed order. Mast immediately objected, and he did say if it were not
changed, that he would object to the court or file an *ex-parte* motion to set that
order aside. Nothing was in any such communication that was not true.

1 Mast did engage Rossi to represent him in his claim against JRS
2 regarding the accounting dispute. The referral of the other cases or the work
3 Mast did therein had nothing to do with payment for that representation. Mast
4 has asked JRS to put that on hold for the present, as Mast did not want it to
5 interfere with this case. Mast did work extensively and tirelessly as Rossi has
6 said, but that was because the work had to be done to benefit the Petitioners,
7 and there was no one else to do it. As explained elsewhere, this did not end
8 ever, and particularly had nothing to do with the Daily Journal article. Mast
9 worked just as hard for the partnership, to the extent of even getting 50 to 70
10 more clients for the partnership, the retainers being in Rossi's name. This case
is not an obsession for Mast, and Mast is clearly not a legal clerk for Rossi.

11 There have not been any threats or actions by Mast, as alleged by Rossi.
12 Keep in mind that this all started with Rossi's conduct after the demurrer hearing,
13 followed by his failure to communicate either by email or by returning phone
14 calls, for 18 days and then for another approximately 12 days. When he did
15 finally communicate, it was to falsely maneuver Mast into the position where he
was able to stipulate Mast out of the case, which is where we are now.

17 CONCLUSION

18
19 Mast has never asked that Rossi be removed from the case. Mast,
20 always an optimist, still hopes that Rossi will bury his anger and begin working
21 for the good of the Petitioners. If the Court makes a ruling that both Mast and
22 Rossi remain equal as attorneys for Petitioners, Mast requests that all
23 communications with opposing counsel be with Mast, and Mast will commit to
24 immediately communicate any communication to Rossi. Mast should have this
25 duty, as Rossi has shown that he is capable of ignoring Mast, ignoring the case,
and doing nothing for very extended periods of time.

26 If the Court decides that there should be a lead counsel, it should be Mast,
27 as Rossi has proven that he is not responsible to communicate and get over his
28 anger and hostility.

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Mast believes that a counsel cannot be removed unless the Court finds malfeasance.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on July 18, 2012, at Laguna Woods, CA.

Paul G. Mast

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