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7 ALKIVIADES DAVID

9 **SUPERIOR COURT CALIFORNIA, COUNTY OF LOS ANGELES**
10 **EASTERN DISTRICT – POMONA COURTHOUSE**

11
12 ELIZABETH TAYLOR,
13 CHASITY JONES,
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15 Plaintiffs,
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17 vs.
18 ALKIVIADES DAVID, et al.,
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20 Defendants.

No. BC 649025
DEFENDANT REQUEST FOR COURT TO
RECUSE PER CCP SEC. 170.1
DATE: March 14, 2023
TIME: 8:30 a.m.
DEPT: O [Hon. Thomas Falls]

21 TO THE HONORABLE THOMAS FALLS, JUDGE OF THE SUPERIOR COURT:
22 Defendant ALKIVIADES DAVID respectfully requests that the Court disqualify and/or
23 recuse itself in the interests of justice pursuant to Code of Civ. Proced. Sec. 170.1 based upon the
24 following instances of actual and/or perceived lack of impartiality or bias:

- 25 a. On February 22, 2023, the Court held the defendant in direct contempt based on
26 repeated interruptions despite multiple warnings from the Court. For purposes of this
27 Request, the defendant does not dispute the Court’s findings. However, upon immed-
28 iate sentencing, the Court sentenced the defendant to five days in county jail to be
served forthwith, despite an apology from the defendant and his acknowledged under-
standing to refrain from further interruptions. Upon immediate remand into custody,

1 the Court failed or refused to appropriately notify the Los Angeles Sheriff Department
2 that the defendant was to serve five days. Instead, the Court issued a no bail remand
3 back to court for February 27, 2023, wrongly believing that February 27 constituted
4 the fifth day of incarceration. In fact, February 27, 2023, constituted the sixth day of
5 incarceration, which was beyond the time in which the defendant was sentenced.
6 Additionally, by failing or refusing to advise the Sheriff Department of the five-day
7 sentence, the defendant was precluded from earning Penal Code sec. 4019 credits that
8 likely would have resulted in his release on or before February 25, 2023. [It should be
9 noted that once defense counsel brought the Court's error to its attention, the Court
10 took steps, including phone calls to County Jail, to ensure that the defendant was
11 released from the courthouse rather than typically having to return to County Jail for
12 release from that location. Additionally, after learning that the defendant had not
13 eaten (other than peanut butter) and had not showered in five days, the Court
14 graciously agreed to continue proceedings to March 14, 2023, to allow the defendant
15 an opportunity to recover from his jail ordeal – underscoring the depraved conditions
16 existing in Los Angeles County Jail]. In total, the defendant spent at least an
17 additional 24 hours wrongfully detained, which included bringing the defendant in
18 shackles and an orange jail jumpsuit into the courtroom on February 27, 2023, which
19 further shamed and demeaned the defendant in a civil proceeding before opposing
20 counsel and emphasized the defendant's wrongful incarceration at that time;

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24 b. On February 22, 2023, prior to finding the defendant in contempt, the Court precluded
25 the defendant from having his fully certified service dog, Vader, at his side during
26 court proceedings. The dog is deemed a comfort and anti-anxiety service animal.
27 That certification was presented to the Court prior to commencement of the hearing.
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1 Instead, the Court ordered that the dog be confined in a conference room adjacent to
2 the courtroom because the Court was advised by a Sheriff Department deputy that
3 there were unconfirmed reports that the dog had previously bitten two individuals
4 during prior court appearances. That hearsay report was unverified and turned out to
5 be unfounded. During court proceedings, the defendant could hear his dog bark and
6 whine, which inflicted distress on the defendant, and arguably contributed to the
7 defendant's outbursts that resulted in the contempt citation. Defendant asserts that the
8 Court unfairly deprived him of his fully certified service dog, which resulted in the
9 defendant suffering increased anxiety during court proceedings. Additionally, despite
10 the unfounded allegations regarding the dog, the Court continues to require informa-
11 tion from the defendant relating to the dog, its training and the defendant's need for
12 same, arguably in violation of California law and the Americans With Disabilities Act
13 ("ADA"; and

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16 c. At the court proceeding on February 27, 2023, the Court admonished the defendant on
17 a few occasions that it could further incarcerate the defendant indefinitely in county
18 jail for "coercive contempt," if he fails to accurately and fully answer questions
19 relating to his financial condition. The Court cited a few examples to the defendant of
20 individuals being held for years because of coercive contempt. Defendant perceived
21 this admonishment as a possible threat and further indication that the Court lacks
22 impartiality with respect to his case and harbors animus towards him, in that, the Court
23 has no indication at present that the defendant will not fully cooperate in the March
24 14, 2023 scheduled judgment debtor proceeding.

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26 For the foregoing reasons, defendant respectfully requests that the Court disqualify itself
27 from further proceedings, or alternatively, refer the matter to another judge for a determination
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regarding allegations that the Court cannot be impartial based upon the afore-described events and statements. Accordingly, the defendant ALKI DAVID has a reasonable and good faith belief that a person aware of the facts aforementioned might reasonably entertain a doubt that the judge would be able to be impartial in the pending matters. (CCP sec. 170.1).

Dated: March 3, 2023

Respectfully submitted:

DANA M. COLE
Attorney for Defendant,
ALKI DAVID