

08:58:45 a.m. 12-03-2015

Dec. 3, 2015 8:54AM

No. 5004 P. 3

1 Lisa Bloom, Esq. (SBN 158458)
 2 Nadia Taghizadeh, Esq. (SBN 259328)
 3 Alan Goldstein, Esq. (SBN 296430)
 4 THE BLOOM FIRM
 5 20700 Ventura Blvd., Suite 301
 6 Woodland Hills, CA 91364
 7 Telephone: (818) 914-7314
 8 Facsimile: (866) 852-5666
 9 Email: Lisa@TheBloomFirm.com
 10 Nadia@TheBloomFirm.com
 11 Attorneys for Plaintiff JANICE DICKINSON

FILED
 Superior Court of California
 County of Los Angeles

DEC - 3 2015

Sherri R. Carter, Executive Officer/Clerk
 By *[Signature]* Deputy
 Nancy Alvarez

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 13 FOR THE COUNTY OF LOS ANGELES

14 JANICE DICKINSON, an individual,

CASE NO.: BC 580909

15 Plaintiff,

[Hon. Debre Weintraub – Dept. 47]

16 v.

17 WILLIAM H. COSBY, JR., an individual,
 18 MARTIN SINGER, an individual
 and DOES 1 through 100, inclusive,

**PLAINTIFF'S OPPOSITION TO
 DEFENDANTS' SECOND
 PEREMPTORY CHALLENGE
 PURSUANT TO CODE CIV. PROC.
 §170.6; REQUEST FOR JUDICIAL
 NOTICE**

19 Defendants.

20
21
22
23 Complaint filed: May 20, 2015

24
25 Plaintiff JANICE DICKINSON ("Ms. Dickinson"), by and through her attorneys, THE
 26 BLOOM FIRM, respectfully submits the following points and authorities in support of her
 27 opposition to the Defendants' second peremptory challenge under Code of Civil Procedure
 28 section 170.6. Plaintiff's Request for Judicial Notice is filed concurrently herewith.

1 **STATEMENT OF RELEVANT FACTS**

2 On June 12, 2015, Lavelly & Singer, P.C., attorneys for Defendant WILLIAM H.
3 COSBY, JR. (“Mr. Cosby”), filed a Peremptory Challenge to Hon. Holly E. Kendig pursuant to
4 section 170.6 of the Code of Civil Procedure. See Plaintiff’s Request for Judicial Notice
5 Exhibit A. On June 17, 2015, this Court granted Defendant’s Peremptory Challenge and
6 reassigned the matter to Hon. Robert L. Hess. See Plaintiff’s Request for Judicial Notice
7 Exhibit B.

8 On June 26, 2015, Ms. Dickinson filed a Peremptory Challenge against the Hon. Robert
9 L. Hess pursuant to section 170.6 of the Code of Civil Procedure. See Plaintiff’s Request for
10 Judicial Notice Exhibit C. On July 7, 2015, this Court granted Ms. Dickinson’s Peremptory
11 Challenge and reassigned the matter to Hon. Debre K. Weintraub. See Plaintiff’s Request for
12 Judicial Notice Exhibit D.

13 On November 30, 2015, Lavelly & Singer, P.C. filed a second Peremptory Challenge
14 pursuant to section 170.6 of the Code of Civil Procedure, this time against the Hon. Debre K.
15 Weintraub, on behalf of co-Defendant Martin Singer. See Plaintiff’s Request for Judicial Notice
16 Exhibit E.

17 **LAW AND ARGUMENT**

18 **CO-DEFENDANTS ON THE “SAME SIDE” MAY NOT DISQUALIFY A JUDGE**
19 **MORE THAN ONCE**

20 Section 170.6(a)(4) of the Code of Civil Procedure provides in pertinent part that:

21 In actions or special proceedings where there may be more than
22 one plaintiff or similar party **or more than one defendant or**
23 **similar party** appearing in the action or special proceeding, **only**
24 **one motion for each side** may be made in any one action or
special proceeding.

(Cal. Civ. Proc. Code § 170.6) (emphasis added).

25 The California Supreme Court has consistently held that Section 170.6 is designed to
26 prevent abuse by parties that merely seek to delay a trial or obtain a more favorable judicial
27 forum. *Home Ins. Co. v. Superior Court*, 34 Cal. 4th 1025, 1032-33 (2005) (“*Home Ins. Co.*”);
28 *Peracchi v. Superior Court*, 30 Cal. 4th 1245, 1253 (2003); *People v. Superior Court*, 28 Cal.

1 4th 798, 806 (2002) (“*Jiminez*”); *Solberg v. Superior Court*, 19 Cal. 3d 182,197 (1977). An
2 important feature of the statute is that each party, or each side, should there be more than one
3 plaintiff or defendant, is limited to a single peremptory challenge. *Home Ins. Co.* at 1032.

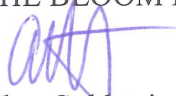
4 In *Home Ins. Co.*, the Court held that “the phrase ‘only one motion for each side’
5 contemplates that one side may consist of several parties, and a peremptory challenge by any
6 party disqualifies the judge on behalf of all parties on that side.” *Id.* at 1032 (*see also Pappa v.*
7 *Superior Court of Los Angeles Cty.*, 54 Cal. 2d 350, 353-354 (1960)). The Court further noted
8 that, “[t]o effectuate the Legislature’s intent, [California] courts ‘have been vigilant to enforce
9 the statutory restrictions on the number and timing of motions permitted’ (citing *Solberg*, 19
10 Cal. 3d at 197; *Jiminez*, 28 Cal. 4th at 806) and that [California courts] have not permitted ‘a
11 device intended for spare and protective use to be converted into a weapon of offense and
12 thereby to become an obstruction to efficient judicial administration.’ ” *Id.* at 1033.
13 Accordingly, “when a party among several on the same side has disqualified a trial judge
14 pursuant to section 170.6 and subsequently is dismissed from the action, the disqualification is
15 not thereby annulled - the remaining parties on the same side are not entitled to a new
16 peremptory challenge.” *Id.* at 1033.

17 Here, Co-defendants Mr. Cosby and Mr. Singer are on the same side and their interests
18 are aligned, as that term is used in Section 170.6(a)(4) of the Code of Civil Procedure. The
19 instant case was brought after Mr. Singer made statements on behalf of Mr. Cosby defaming
20 Ms. Dickinson. As such, Mr. Singer may not disqualify Judge Weintraub because Mr. Cosby
21 had previously exercised a challenge under Section 170.6.

22 CONCLUSION

23 For the foregoing reasons, Ms. Dickinson respectfully requests that the Court deny
24 Defendants’ second peremptory challenge pursuant to section 170.6.

25 Respectfully submitted,
26 THE BLOOM FIRM

27 
28 Alan Goldstein
Attorneys for Plaintiff
Janice Dickinson

PROOF OF SERVICE

JANICE DICKINSON v. WILLIAM H. COSBY, JR.
LASC No: BC 580909

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 20700 Ventura Blvd., Suite 301, Woodland Hills, CA 91364.

On December 3, 2015, I served the following document(s) described as: PLAINTIFF'S OPPOSITION TO DEFENDANTS' SECOND PEREMPTORY CHALLENGE PURSUANT TO CODE CIV. PROC. §170.6 AND REQUEST FOR JUDICIAL NOTICE on the interested parties in this action by placing a true and correct copy in an enclosed sealed envelope as follows:

Andrew Brettler, Esq.
LAVELY & SINGER P.C.
2049 Century Park East, Suite 2400
Los Angeles, California 90067
Tel: (310) 556-3501
Fax: (310) 557-3615

Christopher Tayback, Esq.
Randa A.F. Osman, Esq.
Justin C. Griffin, Esq.
QUINN EMANUEL URQUHART & SULLIVAN, LLP
865 South Figueroa Street, 10th Floor
Los Angeles, California 90017-2543
Telephone: (213) 443-3000
Facsimile: (213) 443-3100

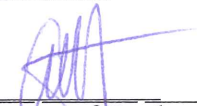
U.S. MAIL I am readily familiar with the firm's practice of collection and processing correspondence by mailing. Under that same practice it would be deposited with U.S. Postal Service on that same day with postage fully prepaid at Los Angeles, California in the ordinary course of business. Following that practice, I placed the foregoing document(s) for deposit and mailing in the United States Postal Service that same day with postage prepaid, sealed and addressed as set forth above, in the ordinary course of business.

BY FACSIMILE TRANSMISSION I caused the said document(s) to be transmitted to the office or residence of the addressee at the above referenced facsimile number.

STATE I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on December 3, 2015 at Los Angeles, California.

Alan Goldstein
(Print or Type Name)


(Signature of Declarant)