OSC CASE # 30-2008-00107531
Consolidated Cases # G040958; G041464

IN THE COURT OF APPEAL
STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION THREE

KAREEM SALESSI
Plaintiff and Appellant,

vs.

"WACHOVIA MORTGAGE, FSB FKA WORLD SAVINGS BANK, FSB, A FEDERAL SAVINGS BANK" [a Fictional Non-Entity]; FIDELITY NATIONAL AGENCY SALES AND POSTING; GOLDEN WEST SAVINGS ASSOCIATION SERVICE CO.; ANGLIN FLEWELLING RASMUSSEN CAMPELL & TRYTTEN LLP;
Defendants/Respondents.

APPEAL FROM THE SUPERIOR COURT OF ORANGE COUNTY
WILLIAM MONROE, JUDGE
CASE NO. 30-2008-00107531

APPELLANT'S OPENING BRIEF

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CERTIFICATE OF REALTED CASES

THE FOLLOWING CASES ARE RELATED TO THIS APPEAL:

-APPELLATE CASES: G043669 (ACTIVE);

-APPELLATE CASES: 30-2009-00314155-CL-UD-CJC (ACTIVE);

-APPELLATE CASES: G38002; G040713 (CLOSED);

-SUPREME COURT CASE CASE: S166021 (CLOSED);

- BANKRUPTCY CHAPTER-11 case # 8:09-bk-13791-ES (ACTIVE);

-Salessi v. Commonwealth Title, et al. (2009 WL 3873625) SAV 08-01274 DOC (MLGx)-(Central District of California, Santa Ana Division) (stayed)

- **JAMS Arbitration Case #1200040438 (ON STAY)**

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INTRODUCTION

MODUS OPERANDI: Counterfeit; Theft; Laundering of Money & Real Estate:

Because real estate is not movable, theft and laundering of real estate in the United States is committed by systemic mixes of the following means1:

1- Fabrication of fraudulent documents;

2- Public resources to legitimize fraudulent documents;

3- Armed robbery, by public forces, to remove owners from houses;

4- Armed robbery, by occupation and sale of stolen real estate;

1- Fabrication of fraudulent documents;

Fabrication of fraudulent documents begins in the hands of real estate agents, by collecting a few sample signatures from potential sellers, or buyers. Chains of documents are created by agents, mortgage brokers, lenders, and title officers. Title companies, and / or lenders, email their documents to county recorders' computers, whereupon impressions of automated electronic recorder's stamps, they are returned to senders. With such an operation a home loan is usually created only inside computers within seconds, and the "loaned funds" (ie: an email) is purportedly wired to the seller's escrow account to be distributed accordingly. The only real money, if any, is usually paid by buyers as down payments. Unless a buyer participates in the above scheme he becomes a victim with little or no idea as to what led to the buyer's receiving

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1 **An extensive account of this global crime is documented in appellant's Federal Case Salessi v. Commonwealth Title, et al. (2009 WL 3873625) SAV 08-01274 DOC (MLGx),. and incorporated herein full with this reference. NOTICE: Each Appendix Exhibit is a true and correct copy of the document identified, or a true copy of the contents thereof and is incorporated with this reference into this brief**

keys to a house with obligations to pay for exorbitant loans much higher than true cash-values (per *Civil Code §3501*) of the house, which he supposedly bought, despite many missing documents. The forgery operations of the above mentioned people ensure that all the missing documents are fabricated by cutting and splicing, or scanning and printing, sample signatures onto missing documents and faxing the forgeries back to themselves, as if faxed from victims. All these operations are concealed from victims, such as from appellant Salessi here, which is why it took 5 years to discover the forgeries. Much more of the crimes remain undiscovered.

As the film "**CAPITALISM, a Love Story**" ("Capitalism") documented, similar criminal fabrications were committed in creating Equity Line of Credit (**ELOC**) loans. During this decade these loans were provided to millions of vulnerable victims only with the intention of stealing the real estate which secured the said loans. Since no real money was ever paid out by the purported lenders, there were no limits to the amount of credit lines the "lenders" could pass on to their victims, in a game of smoke and mirrors. Purpoted "wire transfers" of lenders are only book-entries of loan amounts typed into American banks' national computer network called "**Federal Reserve System"**2.(ie: "***The Fed." is only a computer, nothing more!***) This is the nefarious reason behind its secrecies. This is also the only reason they could have counterfeited money without limits.

2- Public resources to legitimize fraudulent documents:

Fraudulent documents having been recorded now become fraudulently legitimized, and enforceable, with the abusive support of public resources, such

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2 **For further documentation see "COUNTERFEIT Mechanics" page at: www.KareemSalessi.wordpress.com. The entire related contents of appellant's blog above is incorporated herein with this reference.**

as lawlessness in the use of laws, courts, and police. County recorders operate as hubs and cores of real estate forgery and theft crimes. Anyone can steal anyone else's house without his knowledge or consent as long as he can record a piece of paper to show that the real estate is in his name. By using this simple crime, in the past three years alone, 20 million homes have reportedly been stolen by faceless banks by simply recording millions of preprinted fraudulent pieces of paper called **"TRUSTEE'S DEED UPON SALE", w**hereby no such sales happened, but was pretended to have occurred under the false pretense of **"NON-JUDICIAL FORECLOSURES",** an organized crime legislation schemed for the sole purpose of stealing, and laundering, real estate in an endless cycle.

No matter how criminally the above mentioned documents are fabricated, lenders escape liability by: overtly corrupting the government from the top down; influencing courts to expedite their thefts of real estate; blocking simple injunctions against robberies; and concealing the fact that they have no notes.

The reason behind courts siding with "lenders" is to prevent disclosure of the secret that the original fabricated documents, in step one above, were sold to others in bulk (usually in truck-loads) at discounts, and the buyers re-bulked them and resold them in ship-loads at additional discounts many times over. After a couple of bulk sales of such counterfeit loan documents, they are usually destroyed, to open space for newer counterfeits, because they have produced thousands of tons of such documents, each ton equaling millions of dollars of counterfeit money. Thus, none of the original notes, and / or deeds of trust exist anymore, leaving the bulk of American real-estate unencumbered, free & clear! However, more than three times of the total amount of the said loans, namely over $14 trillion was robbed by banks since 2008 as bailouts. In 2009, **Capitalism** called this a national *coup de' tat. In 2004,* Salessi called this a

global act of engineered terrorism and mass destruction, and documented it with the $14 trillion in his 2004 lawsuit, Orange County Case # 04CC11080.

Salessi can prove that these colossal economic crimes were engineered in the 1980's, and that the notorious savings and loan crisis of twenty years ago was only a test-trial of the colossal scheme we see today, leading up to the official legitimization of over $619 trillion counterfeit (created this decade) by the U.S. Government's passage of its July 2010 Financial Reform Bill, paving the way for the total annihilation of American communities, by bankrupting them and by preventing the prosecution of those involved in the colossal counterfeit above, which sum is 100 times the value of the entire American real estate.

To prevent the disclosure of the explained destruction of the counterfeit loan notes, and of the $619+ trillion counterfeit, banks influence courts, whatever it takes, to disregard all laws and judicial processes (as in this appellant's case) and to help them force the owners of real estate to surrender their houses or be faced with armed robbery by county sheriffs who are at total disposal and servitude of banks, not the people whom they have taken oaths to protect. In this matter the trial court took similar orders from Wachovia.

2- Armed robbery, by public forces, to remove owners from houses:

After steps 1 and 2 above are completed the lender / counterfeiters, based on their above crimes, buy another piece of paper from courts called "writ of execution/possession", and pay oath-breaking sheriffs to attack the targeted home-owners (from whom sheriffs receive their salaries) and to force the families out of their homes, under an inherently criminal law namely "Unlawful Detainer Action", which scheme has been subverted into the judicial system against owners of homes, for theft of real estate. Treasonous sheriffs conduct armed raids on innocent civilians, evict the owners at gun point and lock them

out of their homes. Knowing full well that they commit armed robberies, sheriffs hand over the criminally occupied homes to faceless lenders, who aren't even identified to be charged with crimes of global magnitude, as we have recently seen in the criminal indictment of Wachovia, now publicly known as **"Wachovia Drug Cartel"** for having laundered $1/2 trillion drug money (in 2003- ??).

"Wachovia Drug Cartel" evidently bought its way out of forfeiture, and criminal indictments of its drug running officers, by paying only a nominal fine and changing its name to **Wells Fargo Bank**, only three days after signing its concession to the drug money laundering crimes, and the payment of $160 million fines. Once again judicial systems supported drug cartels as in here.

3- Armed robbery, by occupation and sale of stolen real estate:

Armed robberies of oath-breaking sheriffs lead to forced occupations by agents of faceless lenders who turn to the same fraudulent real estate agents, to resell the houses so that they can recycle, and re-launder, them and commit the same criminal operations over and over again, first by collecting a few sample signatures from potential buyers. Theft, and laundering, is completed by the sale of house, and recordation of newly counterfeited loan and deed documents. This criminal scheme of operation has been engineered, and enforced in this country, because real estate cannot be moved.

Appellant Salessi (hereinafter: "appellant"/"Salessi", or "I") briefly defined the above modus operandi of RICO enterprises which accomplished the financial meltdowns we have been observing since 2007. Salessi is one of the millions of victims of the above crimes, which crimes have been supported by courts in orange county against Salessi, despite having prevailed in his 2004 case # 04CC11080, with judgments totaling ***$825,000.***

FACTS:

Appellant Kareem Salessi (Salessi) filed Orange Superior Court RICO Case #04CC11080 regarding the subject property of the underlying lawsuit. Three years later, Salessi prevailed in that case upon the grant of $825,000 total judgments against several defendants. Also, during late 2007 to early 2008, Salessi discovered that the grant deed, and loan documents, of the purported sale of the subject property had all been systemically forged by most defendants, at every stage, in particular by: ***First Team Real Estate; Coast Cities Escrow; Commonwealth Title; World Savings Bank; Orange County Assessor/Recorder; Thomas Abercrombie; Alpha Appraisals.*** Until now, courts have praised, or supported, the forgeries, and the forgers!!!

The forgeries were a routine part of a colossal financial sabotage engineered to produce the economic meltdowns recently observed. Salessi, having had professional experience in financial markets, discovered this colossal global criminal scheme in 2003 and documented it in his 2004 case above, while accurately calculating economic meltdowns to begin in 2007. See:www.KareemSalessi.wordpress.com. ("BLOG")

In late 2007 while appellate case #G038002 was pending against World Savings (World) and other defendants, Salessi mailed documentation of forensic forgery expert to World, and their counsel Mr. Rippy, who confirmed Orange County recorder's claim that in order to expunge the forged documents from Orange County records Salessi needed to obtain a court order from the trial court case #04CC11080. Salessi also cited to case laws and statutes permitting him to stop payment of the fraudulently obtained mortgages. World promised to investigate the forgery matters with its title insurer, Commonwealth

Title (Commonwealth) and report, but instead initiated a fraudulent Non-Judicial Foreclosure, while Commonwealth which had independently verified the forgeries accepted to take action but only out of court and in a binding arbitration, to which Salessi conceded. **JAMS Arbitration Case #1200040438** was initiated. A motion to lift stay, and compel reinstatement of the JAMS case is calendared for 9/2/10 in Salessi's Chapter 11 case.(AA80)

The County of Orange refused to initiate any actions of their own despite Salessi's pending criminal complaint against the forgers, which complaint was subverted with the fraud investigation office of the RICO convicted Orange County Sheriff Michael Carona. The ditching of Salessi's criminal complaint was apparently by a low-level investigator officer Copic, however, it was probably done at higher levels and that Copic only took orders to ditch it. At stake was the potentially explosive criminal indictments of individuals working for an ongoing multi-billion dollar forgery operations known as First Team Real Estate, Coast Cities Escrow, and some title companies as documented in Salessi's oral argument of G038002.

The county's claim of non-responsibility was false and made the county further liable for failure to act, as documented in BLOG page "LITIGATION" since county could have initiated the expungement of the forged documents, and finalized it in no time. However, since the County of Orange had been an integrated part of this organized scheme, they avoided responsibility and further assisted a drug cartel, namely Wachovia Drug Cartel to steal Salessi's house under the false pretense of a Non-Judicial Foreclosure, which was illegal even if all the documents and loans had been proper, pursuant to, inter alia, *CCP §916*, because the appellate case G038002 was pending against World and the only potentially legal remedy could have been a judicial foreclosure in which

they would have failed owing to the documented uncontested forgeries, with no defenses thereto.

Early in 2008, Salessi filed a motion to expunge the forged documents in case #04CC11040, however, the court stated it had no jurisdiction owing to the pending appeal, and suggested that Salessi quickly file a quiet-title action to expunge the documents. Salessi informed World of its intention to file the said action, expunge the forged documents, and get this over with. World Savings began a new ploy by telling Salessi that they had halted all foreclosure activities and were seriously investigating the matter, and that he should not worry about any foreclosure sale since they were investigating. However, this was an outright lie to catch Salessi off-guard in the heat of the trial of his unrelated case #05CC00124, whereby suddenly on 5/21/08 a "NOTICE OF TRUSTEE SALE", was posted on Salessi's front door with no beneficiary names, and a sale date of 6/5/08, to make sure Salessi had no time to take appropriate action.

In a shocking rush, Salessi retained attorney Ross to file the quiet title , and expungement, action concurrent with an injunction against the fraudulent foreclosure. Salessi provided attorney Ross a complete package of the complaint, the TRO, proposed orders, and the like. Attorney Ross having promised to file the complaint as instructed, after cashing Salessi's check consulted with new counsel for Wachovia, AFRCT, who are also defendant respondents in this action, and derailed Salessi's case by only filing the TRO and injunction part of the complaint, thus defeating the main causes of action, namely Quiet Title, and Expungement of Forged Instruments.

The 6/4/08 transcript shows that attorney Ross, with a pathetic presentation of Salessi's case, succumbed to the lies of the AFRCT attorney Fred Hickman, and the strong prejudices of the TRO judge, who immediately

presumed a personal ownership of the case and vowed to sanction Salessi, and penalize him with attorney fees and have his house stolen A.S.A.P. Salessi, while sitting at the far end of the court room, and under intense mental pressure, could not hear most of what the judge said, otherwise he would have instructed attorney Ross to file a peremptory challenge against the judge, before leaving the courthouse. However, since the case was never Assigned for All Purposes to Judge Monroe, Salessi did not lose his rights to one premeptory challenge which he filed on 7/8/08, on the morning of the afternoon when the first hearing was calendared, for a preliminary injunction.

The rest of the case took a wild course because of the problems which ownership interest of the judge created at inception of the case, leading to his scheming with Mr. Hickman/AFRCT to steal the house from Salessi and rendering a series of judgments including sanctions and attorney feels exceeding $100,000. The judge unlawfully struck three separate challenges, facilitated the theft of the house, in which Salessi had over $800,000. equity in 2007, and which he wanted to sell in 2007, but for the fault of another lawyer, John Chakmak, who converted Salessi's funds to handle his case #G038002 but failed to file any briefs, and even failed to file NOTICES OF APPEAL regarding World Savings and Roshdieh. In this country there seem to exist no remedies against faulty lawyers, as in here. On 7/18/10 respondents recorded a fraudulent page titled **"TRUSTEE'S DEED UPON SALE"** naming **"WACHOVIA MORTGAGE, FSB FKA WORLD SAVINGS BANK, FSB, A FEDERAL SAVINGS BANK",** a non-registered, non-existent, artifice, while the **Wachovia** name had appeared only in letters, and only as a servicer not lender. Also, "**NOTICE OF TRUSTEE SALE"** had no beneficiary, and was thus void pursuant to *CC §2934(a)(b)*.(AA46-49)

STANDARD OF REVIEW

Where a party is denied a fair hearing because of the misconduct of the court, the matter is reversible per se. (9 Witkin, Cal. Procedure, § 449, p. 497; *Fewel v. Fewel* (1943) 23 Cal.2d 431, 433, 144 P.2d 592.) Because Judge Monroe lacked the power to rule on Appellant's motions for: challenge against himself; for preliminary injunction; and all the other motions which followed, his actions in proceedings with the hearings on all motions constituted serial denials of fair hearings, which is reversible per se on review. (2 Witkin, Cal. Procedure, Jurisdiction, §§ 293-294, p. 864.), citing from *(Christie v. City of El Centro, (2006) 135 Cal.App.4th at p. 776, 37 Cal.Rptr.3d 718.).*

Denial of due process of law, as in here is reversible on review. The Due Process Clause of the 14th Amendment to the United States Constitution guarantees the right to a fair and impartial judge. A neutral judge is considered the starting point of a fair trial *Ward v. Village of Monroeville*, 409 U.S. 57 (1972). Even an alleged enemy combatant is entitled to present evidence before a *neutral* decision maker. *Hamdi v. Rumsfeld*, 03-6696 (U.S. 2004). Decided 7/28/2004. The right to an impartial judge is also protected by the California State Constitution and our legislature has enshrined the right in California code of Civil Procedure § 170.1, et seq. In the underlying trial case Appellant's affidavit had been filed challenging the bias of the jurist pursuant to CCP 170.1 and CCP 170.6. The judge did not honor the affidavit, but instead concealed the fact that he was automatically disqualified, and subverted the challenge by elaborate coordination with the opposing counsel. All his orders are reversible per se without determining if the orders were meritorious.

Appellant petitioned for a writ of mandate to restrain the biased judge from proceeding with the case, which had NOT been assigned to him for all purposes, the writ petition was summarily denied by this court, as all writs evidently are. "(t)he right conferred by Code of Civil Procedure, section 170.6, is a substantial right which is now part of the system of due process and judicial fair play in this state. The constitutionality of that section and the validity of the standard therein imposed was upheld in Johnson v. Superior Court, 50 Cal.2d 693". Appellant was in sufficient compliance with the statute in this respect, and since the judge was in fact disqualified to hear the preliminary examination [here Preliminary Injunction] his action thereon was void (People v. Elliot, 54 Cal.2d 498. The fact that the evidence was substantial would not confer on the justice authority to hear the preliminary examination and hold the defendant to answer, on the theory that the evidence was such that any other justice hearing it would have done the same thing. (People v. Prizant, 186 Cal.App.2d 542, 545 [9 Cal.Rptr. 282].)" In the instant case the evidence was in total favor of appellant Salessi but judge disregarded all evidence. (Complaint: AA1-45)

Appellant Salessi's right to an unbiased judge is fundamental. The right is protected by both the United States and California State Constitution due process clauses. The right is guaranteed by CCP 170.6. That right was impaired by the repeated contacts by the trial judge with opposing counsel. The challenged judge consulted with the opposing counsel on substantive and procedural rights of the parties. This denied Appellant/plaintiff an important and substantial right and by doing so prejudiced the trial. Because an order rendered by a disqualified judge is null and void, it will be set aside without determining if the order was meritorious. (*Tatum v. Southern Pacific Co.* (1967)

250 Cal.App.2d 40, 43, 58 Cal.Rptr. 238) cited by *(Christie v. City of El Centro (2006), supra.*

On the basis of the above legal background, although Salessi does not herewith independently appeal from every erroneous order, and judgment, entered against him in this case, he preserves his rights to do so, if need be, by filing the necessary supplemental briefs with leave from this court, thus not waiving any issues not raised in this opening brief.

DISCUSSION:

7/8/08 CHALLENGE RETROACTIVELY DISQUALIFIED TRIAL JUDGE AS OF 6/4/08; HIS ORDERS ENTERED SINCE 6/4/08 ARE VOID ab initio:

Salessi, in support of proving that Judge Monroe was seriously prejudiced against him as of the inception of the case, the TRO hearing, represented by attorney Ross, cites to the transcript where the judge made endless disparaging remarks against Salessi, thus prejudging the case while repeatedly denying the forgery facts, despite having before him proof of forgeries of Salessi's grant deed and loan documents prepared by forensic hand-writing expert, Eva Salzer. The judge made grossly prejudicial remarks against the facts of the case, and against Salessi, as seen in: [TR: 6/4/08: P. 9, L. 14 to middle of page 18].

The prejudicial statements of the judge on 6/4/08 set forth the fact that with Salessi's 7/8/08 challenge, the judge was retroactively disqualified as of 6/4/08, the inception of the lawsuit, because it is the act of disqualification which determines when challenge occurs. "[D]isqualification occurs when the facts creating disqualification arise, not when the disqualification is established." *(Christie v. City of El Centro, supra, 135 Cal.App.4th at p. 776, 37 Cal.Rptr.3d*

718.) "[I]t is the fact of disqualification that controls not subsequent judicial action on that disqualification."*(Id. at p. 777, 37 Cal.Rptr.3d 718.)* In the Salessi case, grossly prejudicial statements of the judge on 6/4/08 established his disqualification as of that date, the first hearing of the case.

Further, all orders rendered by the judge must be set aside as ***void ab initio***, as a matter of law. Orders made by a disqualified judge are **void.** *(Cadenasso v. Bank of Italy (1932) 214 Cal. 562, 567-568, 6 P.2d 944; Christie v. City of El Centro (2006) 135 Cal.App.4th 767, 776, 37 Cal.Rptr.3d 718.)* There is a dispute in recent appellate authority as to whether such orders should be considered void or only voidable at the option of a party; **the Supreme Court's latest opinion on the matter held them to be void.** *(Christie v. City of El Centro,) supra,*

On 7/8/08, Salessi challenged the trial judge by serving him:

"**PLAINTIFF SALESSI's PEREMPTORY CHALLENGE per CCP §170.1**" **(AA-50).**

The above challenge, on its face, served the purpose of two types of challenges, namely as a statutory Peremptory Challenge per *CCP §170.6*, and as a Challenge for Cause pursuant to *CCP §170.1*. Salessi believes that Judge Monroe was automatically disqualified pursuant to *CCP §170.6*, and that in the alternative he was further disqualified for cause pursuant to *CCP §170.1* and that the judge's denial of the challenge/s was an error, an abuse of discretion, or both. Salessi now proves how each form of the challenge disqualified the judge by the operation of law and made his orders and judgments *void ab initio*.

The judicial disqualification rules apply whether the judge disqualifies himself or herself in the interests of justice or whether the judge is disqualified for another reason. *Bates v. Rubio's Restaurants, Inc. (App. 4 Dist. 2009) 102 Cal.Rptr.3d 206, 179 Cal.App.4th 1125,* review denied. In Bates above an

Orange County judge was challenged with a very untimely ***§170.6*** . The said challenge was automatically moot because it had been too late, however, the trial judge sensing that his recusal may better serve the interest of justice graciously converted it to a for cause challenge and recused himself, thereafter setting aside a ruling he had made causing the challenge. This court of appeal held that his recusal was proper and the Supreme court denied its review, thus affirming this appellate court's affirmance of the challenge. In the instant Salessi case, it is the absolute opposite, in that the judge received a timely challenge pursuant to ***§170.6,*** and a concurrent challenge per ***§170.1*** but disregarded both as if nothing had happened and schemed with opposing lawyers to defuse both challenges. This is probably a rare occurrence in Superior Courts.

EFFECT OF CCP §170.6 CHALLENGE ON 7/8/08:

The Monroe Court had not at all been assigned this case for all purposes upon filing of 6/4/08, or anytime thereafter, and thus the challenge acted as a peremptory challenge and automatically disqualified the judge as explained:

On the early morning of 6/4/08, upon filing of the complaint, and the TRO papers, the clerk first numbered the complaint without assigning it to a particular judge while stating that she had to find an available judge who would be able to hear the emergency application for a Temporary Restraining Order (TRO), and Order to Show Cause (OSC). She first tried to contact the court of Judge Nakamura, to see if he would be able to hear the TRO, however, she could not locate him. She called around and found out that Judge Monroe was available to hear the TRO. She then stated that Judge Monroe may be able to hear the TRO, but he will not be the judge assigned to the case, and that the case will probably be assigned to Judge Nakamura. (probably because Salessi's 2004

case #04CC11080 had been with Judge Nakamura, until he was assigned to a limited court.)

After 6/4/08, the mandatory all-purposes assignment never occurred, and its mandatory **NOTICE OF ASSIGNMENT FOR ALL PURPOSES**, and the notice of deadline to file a ***CCP §170.6*** peremptory challenge was never issued. Also, no contested issues of fact were ever ruled on before the 7/8/08 challenge, and in order to trigger an all purposes assignment without notice. Only one TRO hearing had occurred on 6/4/08 which was not a contest issue according to the following authorities, cited from California Judges' Bench Book:

> **"The judge's rulings on the following types of matters are not decisions on contested issues of fact for the purposes of CCP §170.6(a)(2) (ninth sentence):**
>
> ***/// /// ///***
>
> **Temporary restraining order. Landmark Holding Group, Inc. v Superior Court (1987) 193 CA3d 525, 529, 238 CR 475."**
>
> **"A party is limited to a single peremptory challenge "in any one action or special proceeding." (§ 170.6, subd. (3).) A challenge to a judge assigned for all purposes is timely if "the motion [is] made to the assigned judge ... by a party within 10 days after notice of the all purpose assignment, or if the party has not yet appeared in the action, then within 10 days after the appearance." (§ 170.6, subd. (2).)"**
>
> **"[§ 7.84] Local Rules: Local rules may not change the requirements of CCP §170.6 or limit the rights granted by it. See Sambrano v Superior Court (1973) 31 CA3d 416, 419, 107 CR 274. For example, if a local court rule provides for a tentative ruling procedure for law and motion matters and a specific judge is regularly assigned to hear those matters, the 10-day/5-day rule (see §7.67) normally applies. Such a local rule cannot deprive a party of its peremptory challenge rights."**

Salessi learned about the above "ALL PURPOSE ASSIGNMENT" laws very recently (August 2010). Based upon justifiable reliance on the above legal scheme Salessi believes the judge, and opposing counsel, were fully aware of the fact that Judge Monroe had not been assigned the case for all purposes on 6/4/08, or anytime thereafter, and that because of this automatic disqualification effect, and according to evidence, the court and attorney Hickman fabricated a scheme to subvert the irrevocable peremptory challenge by doing the following chain of unlawful acts in total violation of, inter alia, ***CCP§170.3(3)*** **[mandating that:] The judge shall not seek to induce a waiver and shall avoid any effort to discover which lawyers or parties favored or opposed a waiver of disqualification.** Some of the unlawful acts of the judge and lawyers were:

- On 7/8/08, at 2:59 p.m. the court called Salessi v. Wachovia. The transcript on pages 1-3 shows how the judge led a conspiracy with attorney Hickman while assuring him that he will deny the challenge and that attorney Hickman didn't even need to show up for the next hearing, and as to how to sell Salessi's house after the next hearing. On page 2, lines 9-10 the judge stated: **"WE'LL SET THIS FOR JULY 15TH AT 8:30 A.M. SO YOU CAN HAVE YOUR SALE RIGHT AFTER THAT. OKAY?"**
- After the hearing, and before the printing of the transcript, the judge ordered the court reporter to redact the part of the sentence stating in substance: **"SO YOU CAN HAVE YOUR SALE RIGHT AFTER THAT"**. This redaction amounts to felony perjury, and forgery, against the judge, attorneys present, and the court reporter Karen Phillips. Further, the court staff who know of such forgeries are also implicated. At the very least, this amounts to the automatic disqualification of the Judge, as of 7/8/08.
- On 7/15/08, when Salessi challenged the Judge for having instructed

attorney Hickman on 7/8/08 to sell the house right after the hearing of 7/15/08, Judge Monroe inadvertently affirmed his above redaction of the 7/8/08 court transcript, and implicated himself even further by stating to have given even more elaborate instructions, which instructions appear nowhere in the 7/8/08 transcript, resulting in the judge's admittance to have given specific instructions which have later disappeared from the transcript [TR: 7/15/08; Page 10]. (In 2007, Salessi having encountered similar court-transcript forgeries in case # 04CC11080, requested this court of appeal to investigate, or reverse dismissals, on that basis. On the advice of a distinguished appellate practitioner, Salessi's request was in the form of a sealed letter to this court, for the benefit of the judicial integrity of the lower court; however, this court gave it no consideration. As we now see, this type of forgery recurred in the Monroe court.)

- Immediately after the 7/8/08 hearing attorney Hickman returned to the court-room, whereupon the judge probably instructed him to prepare his own objection to the challenge and file it so that the judge could use it as guidance for what he intended to file as his contest to the challenge.
- The next three days Mr. Hickman filed his personal illegal objection to the challenge against the judge, plus mailed a "Motion for Sanctions against Salessi for having filed the challenge to the judge…"(AA51-54). In addition, Mr. Hickman sent Salessi a letter of extortion dated July 11, 2008, threatening Salessi to withdraw his lawful challenge, or be faced with the attached sanctions motion.(AA55) These acts amount to criminal extortion and conspiracy against all involved.
- Court removed two documents from court file: the 7/8/08 challenge (AA50), and a document served and filed titled: **"PLAINTIFF'S**

FINDINGS AFTER…"(AA56-60). Salessi discovered the missing documents on 8/5/10, and telephonically verified it's absence with a clerk.

- At the beginning of every hearing since 7/15/08, Salessi repeatedly invoked his rights as to have disqualified the judge and that the court had been stripped of jurisdiction since 7/8/08, although to no avail. To avoid waiving its right to have the challenge enforced, a party must state its objection before the hearing or trial occurs. See, e.g., *Brown v Superior Court, supra, 124 CA3d at 1062* (objecting defendant obtained enforcement of plaintiff's challenge).
- On 7/14/08, Judge Monroe filed his 4 page "**ORDER STRIKING STATEMENT OF DISQUALIFICATION"** and a one page "**VERIFIED ANSWER OF JUDGE WILLIAM MONROE".** (AA61-65) Both of these statements are false in that they contain misstated facts and perjurious declarations aimed to subvert the actuality of the automatic effect of disqualification pursuant to the timeliness of a "PEREMPTORY CHALLENGE" and to fabricate the theft of Salessi's house.
- To prevent the discovery of the automatic peremptory challenge, Judge Monroe did not pass his answer, and striking order, to another judge to determine his disqualification question, as mandated by ***CCP§170.3(c)(5)***, instead because the judge was sure to have been automatically disqualified he bypassed codes of civil procedure by passing upon his own disqualification, as against the following laws as quoted from the California Judges' Bench-Book:

> **"[§ 7.35] Who Makes Determination:**
> **No judge who has been challenged by the filing of a statement of disqualification and who refuses to recuse himself or herself may rule on either the disqualification or the sufficiency of the**

statement of disqualification. CCP §170.3(c)(5)"

- The judge violated all the above by self-ruling on both the sufficiency of Salessi's statement, and the disqualification itself!
- On 7/25/08, Salessi filed Case # G040713 as a **"PETITION FOR A WRIT OF MANDATE…" ("WRIT PETITION")** with this court of appeal, but inadvertently left out the judge's striking statement as an exhibit, which may be a reason the petition was summarily denied on 8/7/08.
- On 8/19/10, while the trial court had NOTICE that Salessi had filed his Case # **S166021** as a **"PETITION FOR REVIEW IN THE SUPREME COURT OF CALIFORNIA" (PFR)**, and that Salessi consistently began each hearing by invoking that his 7/8/08 challenge had stripped the court of jurisdiction, a process server tried to serve a second challenge to Judge Monroe.(AA70-73) The judge was in his chambers but instructed the court staff, and the bailiff, to reject the document. Eventually at the hearing, and upon Salessi's insistence, the judge received it, but refused to confirm that he received it! [TR:8/19/08, P.2, L.10]
- On 8/19/09, upon receiving the challenge the judge once again asked for attorney Hickman's opinion as to what to do with the new challenge, whereupon both attorneys Hickman and Stewart instructed the judge exactly what to do and how to strike it and to proceed without postponing the hearing. The judge obeyed the instructions and followed suit! [TR: Pages 2-4] (unfortunately this is real & was not redacted from transcript)
- On 8/26/08 Judge Monroe filed his second "**ORDER STRIKING STATEMENT OF DISQUALIFICATION" (AA 74-79).** In the middle of its second page the judge cites *CCP §170.4(c)(3),* but once again conceals the fact of his automatic peremptory challenge disqualification. Further,

even though he knew that there are no limits to the number of challenges for cause against a single judge, he stated otherwise. Also the judge violated *C.C.P.* §170.3(c)(5) mandate once again by his self ruling.

This court of appeal has consistently adhered to the plain language of *CCP §170.6(2)* in its application to the fact that Judge Monroe had not made any determinations on the contested merits of the case before he was challenged, despite his disparaging statements against Salessi on 6/4/08, the TRO hearing. Despite the trial judge's probably accurate observation that this lawsuit has little prospect of success, he was not called upon to, nor did he, make "a determination of contested fact issues relating to the merits." (Code Civ. Proc.170.6; see also Bambula v. Superior Court (1985) 174 Cal.App.3d 653 [220 Cal.Rptr. 223] [ruling on a motion for summary judgment does not involve a determination of contested fact issues].) quoting from: *Fight for the Rams v. Superior Court (Los Angeles Rams Football Co., Inc.) (1996) 41 Cal.App.4th 953 [48 Cal.Rptr.2d 851]*, as decided in this court of appeal.

EFFECT OF CCP §170.1 CHALLENGE ON 7/8/08:

If Salessi's motion was assumed to be for cause, then it was timely made before the preliminary injunction hearing and remains in effect to date, with all the same ramifications explained above. Motion to disqualify judge for cause was timely filed where made when judge brought parties into her chambers to announce her tentative decision, which was first indication moving party had that court would hear matter on its merits; counsel presented disqualification statement at "earliest practicable opportunity." *Hollingsworth v. Superior Court (Orange County) (App. 4 Dist. 1987) 236 Cal.Rptr. 193, 191 Cal.App.3d 22. Judges 51(2).* Salessi's two subsequent ***CCP §170.1*** challenges each had similar, joint-and-several, effects on the disqualification of trial judge.

THIS COURT OF APPEAL SUMMARILY DENIED SALESSI'S WRIT PETITION, BUT PRESERVED HIS RIGHTS ON APPEAL TO STRIKE JUDGMENTS ISSUED AFTER ERRONOUS DENIAL OF CHALLENGE:

The California Supreme Court held in *Powers v. City of Richmond* (1995) 10 C4th 85, 114, that:

"When an extraordinary writ proceeding is the only avenue of appellate review, a reviewing court's discretion is quite restricted. Referring to the **writ** of **mandate**, this court has said: "'Its issuance is not necessarily a matter of right, but lies rather in the discretion of the court, but where one has a substantial right to protect or enforce, and this may be accomplished by such a writ, and there is no other plain, speedy and adequate remedy in the ordinary course of law, he [or she] is entitled as a matter of right to the writ, or perhaps more correctly, in other words, it would be an abuse of discretion to refuse it.'" (Dowell v. Superior Court (1956)47 Cal.2d 483, 486-487 [304 P.2d 1009], quoting Potomac Oil Co. v. Dye (1909) 10 Cal.App. 534, 537 [102 P. 677]; accord, May v. Board of Directors (1949) 34 Cal.2d 125, 133-134 [208 P.2d 661].) Accordingly, when writ review is the exclusive means of appellate review of a final order or judgment, an appellate court may not deny an apparently meritorious writ petition, timely presented in a formally and procedurally sufficient manner, merely because, for example, the petition presents no important issue of law or because the court considers the case less worthy of its attention than other matters." 12 C4th 119.

Nevertheless, in Salessi's case this Court of Appeal summarily denied his writ petition although it was meritorious and timely presented in a formally and procedurally sufficient manner. Sometime thereafter, the Supreme Court also

summarily denied Salessi's Petition for Review of the denial of this court.

<u>This Court of Appeal's Denial of Writ Petitions is a General Policy:</u>

Sometime in 2009, as a law-student, Salessi attended some seminars held by the Orange County Bar Appellate section, as well as the Orange County Trial Lawyers Association (OCTLA). In one of the OCTLA seminars given by a panel of this Appellate Court's honorable justices, and a few judges, to a large crowd of lawyers, the justices made it perfectly clear that this court denies all writ petitions on a routine basis. In substance, the following is Salessi's recollection of the justices' statements pertaining to writ petitions filed in this Court of Appeal:

"We deny all writs summarily…In fact we have a joke about writs saying that we have a writ processor sitting in the basement of our courthouse with one bucket on each side… One bucket is for the checks and the other is the trash can for the writs… But in fact you should keep filing them anyway because they are a great source of revenue for us [and of course an even greater source of revenue for you- Salessi's impression in brackets]."

Also in 2009, in another much smaller lunch seminar of the Appellate Bar, the Honorable Justice Sills instructed the lawyers present with valuable appellate tips. One of these tips [to Salessi's impression] was how to defeat oral arguments of self-represented appellants, whose numbers was on the rise. The substance of the instruction, according to this appellant's recollection, was to the effect that: since appellants speak first and last, keeping the main part of argument for the second section of the speech, all you lawyers need to do to defeat a self-represented appellant is to submit [not talk] when your turn comes, thus preventing him from getting to his main closing argument.

The purpose of citing the above personal recollections of Salessi are for the purpose of reminding this court that its denial of his Writ Petition was not on the merits, and thus it should not be held against him as his last resort to set aside void orders, of an automatically disqualified judge. As this court knows, and the Supreme Court's website shows, the Supreme Court evidently summarily denies all Petitions for Review of Writs, similar to this court's policy.

Therefore, the timely filing of Salessi's writ, against the erroneous denial of his challenge against the trial judge, should have, at the least, preserved his rights, in this court of appeal, to now challenge the chain of orders and judgments rendered by the court as *void ab initio* and subject to reversal by this court. The following quote from the judges' Bench-Book further supports the appeal against the trial judge's order following his erroneous denial of challenge on the basis of constitutional due process of law:

> "**F. [§ 7.47] Review of Order Granting or Denying Disqualification: The order is not appealable (CCP §170.3(d)) unless there is a constitutional due process claim that the judge who denied the disqualification was not impartial (People v Brown (1993) 6 C4th 322, 336, 24 CR2d 710).**"

Salessi, in support of proving the judge's prejudgment at the inception of the case, the TRO hearing, represented by attorney Ross, cites to the transcript where the judge made disparaging remarks against Salessi, thus prejudging the case while denying the forgery facts, despite the fact that he had before him proofs of forgeries of Salessi's grant deed and loan documents prepared by forensic hand-writing experts. The judge made such prejudicial remarks against the facts of the case as they appear in: [TR: 6/4/08: P. 9 to 18].

The harsh statements of the judge on 6/4/08 set forth the fact that with

Salessi's 7/8/08 challenge, the judge was retroactively disqualified as of 6/4/08, at the inception of the lawsuit, because it is the act of disqualification which determines its time.

CHAPETER 11 BANKRUPTCY PROCEEDINGS:

Salessi' active Bankruptcy case **# 8:09-bk-13791-ES,** in Santa Ana, was filed on 4/28/09. On 6/9/09 attorneys for Wachovia obtained a relief from stay order on behalf of the non-existing artifice whose name had first appeared on the above mentioned "TRUSTEE'S DEED UPON SALE". Once again, the fictional name was: **"WACHOVIA MORTGAGE, FSB FKA WORLD SAVINGS BANK, FSB, A FEDERAL SAVINGS BANK".** With the documents before it, the Bankruptcy court found the purported foreclosure of 7/15/08, INVALID, and void *ab initio*, but amazingly denied to have done so for one year thereafter. [Request for Judicial Notice (**RJN: 6/24/10**) filed June 24, 2010]. The purported, but fraudulent, foreclosure had occurred in the Monroe court. As seen in the bankruptcy court's order filed one year later, on 6/9/10, the Bankruptcy Court affirmed to have made the following findings and declarations in two separate hearings. The Bankruptcy court's statements may assist this court in streamlining its analysis and decision process:

"…I am granting the motion and I am granting the motion because as far as and I am looking at very narrow view of this. Foreclosure did occur whether you believe it was valid or invalid. **I already believe it was INvalid which you believe is INvalid.** Wachovia believes is valid. It did occur before the bankruptcy was filed, OK? So, it has already happened. With…**" (TR: 6/9/09) "And indeed it would not make sense for me to say that the foreclosure sale was improper and then grant the motion for relief from stay". (TR:8/6/09). [HOWEVER, THAT IS EXACTLY WHAT THE JUDGE DID!]**

That part of the bankruptcy case is now on federal appeal to resolve the above controversy that the bankruptcy court created by making the above findings and statements, denying to have made the statements for a year, and after finally admitting to have made the statements still persisting that the court did not mean to make the finding of invalidity! This has raised eyebrows of everyone who has viewed the orders, and listened to the soundtracks of the court's hearings on BLOG page "LITIGATION…".

CONCLUSION:

Trial court erred in striking multiple disqualification challenges, while answering and striking two of them, as the challenged judge has no discretion to rule on his own disqualification question, but to pass it on to another judge to rule on. Judge Monroe erred to do so, while having taken an ownership interest in the case *ab initio*. The judge was not assigned the case for all purposes, before the first challenge on 7/8/08, or anytime thereafter, and was automatically peremptorily disqualified per ***CCP §170.6,*** or in the alternative, per ***CCP §170.1*** for cause. All of the judge's orders and judgments entered, or not-entered, should be declared void *ab initio*, set aside and reversed by this honorable review court.

In the alternative, the issues in this case have become too convoluted this court should reverse, and remand, with instructions to dismiss the case.

Respectfully submitted.
Dated, August 11, 2010

Kareem Salessi,
Plaintiff and Appellant

CERTIFICATE OF WORD COUNT:

According to the Microsoft Word-Count tool program the total number of words in this document, including this page are: 7964

Dated, August 11, 2010

Kareem Salessi,
Petitioner/Plaintiff

CERTIFICATE OF INTERESTED PARTIES

PURSUANT TO CALIFORNIA RULES OF COURT, RULE 8.208:

Appellant Kareem Salessi declares that the under-named parties, or persons, are interested in this proceedings:

The official associations, or associates-in-fact, registered, or unregistered, of entities identified under the following names are interested parties in this case:

-PARTIES IN THIS & THE RELATED CASES, including but not limited to:

-WORLD SAVINGS BANK; under all aliases;

-GOLDEN WEST SAVINGS ASSOCIATION; under all aliases;

-WACHOVIA, under all aliases;

-WELLS FARGO, under all aliases;

-FIDELITY NATIONAL FINANCIAL, under all aliases;

-COMMONWEALTH TITLE, under all aliases;

Respectfully submitted. Kareem Salessi

Dated, August 11, 2010 Appellant

PROOF OF SERVICE BY MAIL RE:

Consolidated Cases # G040958; G041464

I, declare:

I am NOT a party to this action. My business address is:

On , 2010, I deposited in the United States mail at SANTA ANA, California a copy (or original as the Code requires) of the following document(s):
APPELLANT'S OPENNING BRIEF; APPENDIX;
ADDRESSED TO:

Mr. Mark FLewelling, esq. AFRCT **199 S. LOS ROBLES AVE. SUITE 600,** **PASADENA, CA. 91101** **Tel: 626- 535 1900; Fax: 626- 5777764** **Councel for World Savings/Wachovia**	**Mr. BRIAN P. STEWART, esq.** **428 OLD NEWPORT BLVD.** **NEWPORT BEACH, CA. 92663** **TEL:949-515 0807; FAX:949- 574 0848;** **Attorney for:** **Fidelity National Agency Sales & Posting**
Office of California Attorney General **300 S Spring St Ste 1720** **Los Angeles, CA 90013;**	**Office of the Orange County District Attorney; 401 Civic Center Drive West, Santa Ana, Ca. 92701**
CALIFORNIA SUPREME COURT **300 SOUTH SPRING STREET** **SECOND FLOOR, LOS ANGELES,CA. 90013**	**U.S. TRUSTEE** **411 W. Fourth St Suite 9041** ***Santa Ana*, *CA* 92701** **(714) 338-3400,**

I declare under penalty of perjury that the foregoing is true and correct.
Executed on 2010, in Orange County, California.