

Declaration of Hon. John M. Ideman

CD - 25
17 October 1994

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DECLARATION OF HON. JAMES M. IDEMAN

I, James M. Ideman, declare as follows:

1. Portions of this petition will become moot because I have decided to recuse myself from this case. Plaintiff has recently begin to harass my former law clerk who assisted me on this case, even though she now lives in another city and has other legal employment. This action, in combination with other misconduct by counsel over the years has caused me to reassess my state of mind with respect to the propriety of my continuing to preside over the matter. I have concluded that I should not. I have delayed the effective date of my recusal, however, so that I could respond on behalf of my court to the allegations in the petition.

2. I should say at the outset that this case should soon be concluded in the District Court and thus available for appellate review. I am confident that such a review will reveal that the plaintiff's claims raised in this petition are groundless. I would strongly recommend that any definitive appellate action be deferred pending a thorough review on appeal and that years of work not be wiped out by granting petitioner's extraordinary writ.

3. The past 8 years have consisted mainly of a prolonged, and ultimately unsuccessful, attempt to persuade or compel the plaintiff to comply with lawful discovery. These efforts have been fiercely resisted by plaintiffs. They have utilized every device that we on the District Court have ever heard of to avoid such compliance, and some that are new to us.

4. This noncompliance has consisted of evasions, misrepresentations, broken promises and lies, but ultimately with refusal. As part of this scheme to not comply, the plaintiffs have undertaken a massive campaign of filing every conceivable motion (and some inconceivable) to disguise the true issue in these pretrial proceedings. Apparently viewing litigation as war, plaintiffs by this tactic have had the effect of massively increasing the costs to the other parties, and, for a while, to the Court. The appointment of the Special Master 4 years ago has considerably relieved the burden to this Court. The scope of plaintiff's efforts have to be seen to be believed. (See, Exhibit "A", photo of clerk with filings, and Exhibit "B", copy of

clerk's docket with 82 pages and 1,757 filings.)

5. Yet, it is almost all puffery -- motions without merit or substance. Notwithstanding this, I have carefully monitored the Special Master's handling of these motions. I saw no need to try to improve on the Special Master's writing if I agreed with the reasons and the results. However, with respect to the major ruling that I have made during these proceedings, the dismissal of the plaintiff's claims, the following occurred:

6. The Special Master, after years of efforts to compel compliance with discovery, purported to order a dismissal of plaintiff's claims. Although the action was probably long overdue, the Special Master did not have the authority to make such a dispositive order. In reviewing his order, as I did with all of his actions, I saw what he had done and did not approve it. I treated the Special Master's "order" as a recommendation and gave notice to the parties that they could have a hearing and invited briefs. Only after considering fully the briefs of the parties did I give approval to the dismissal. It is true that I adopted the language chosen by the Special Master, but that was because I fully agreed with his reasoning and saw no need to write further.

7. Plaintiffs are unhappy with Judge Kolts and me for insisting that they comply fully with discovery or forfeit their case. For this reason they wish to have our work set aside and begin anew with another judge who may, they hope, permit them to litigate their claims without complying with discovery, or perhaps, to further punish the other parties with more years of expensive litigation. This they should not be permitted to do, especially by means of the limited review possible on an extraordinary writ.

8. I respectfully recommend that the petitioner's claims that are not mooted by my withdrawal from the case be denied without prejudice to review of same upon appeal.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 17th day of June, 1983 at Los Angeles, California.

James M. Ideman
United States District Judge

cc Elated
cc Aggravated
7-7-97
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93-70281

RECEIVED
PATRY A. CATTERSON, CL
US COURT OF APPEALS

JUN 21 1993

FILED
CLERK
U.S. COURT OF APPEALS
FOR THE NINTH CIRCUIT
SAN FRANCISCO, CALIF.

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DECLARATION OF HON. JAMES M. IDEMAN

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EXCKETED

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2. I should say at the outset that this case should soon be concluded in the District Court and thus available for appellate review. I am confident that such a review will reveal that the plaintiff's claims raised in this petition are groundless. I would strongly recommend that any definitive appellate action be deferred pending a thorough review on appeal and that years of work not be wiped out by granting petitioner's extraordinary writ.

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13 Special Master 4 years ago has considerably relieved the
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15 to be seen to be believed. (See Exhibit "A", photo of clerk
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17 pages and 1,737 filings.)

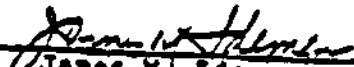
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James M. Idehan
United States District Judge