IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

SAM MASSIAH		
Petitioner,	)	Case No. S 241748
v.	)	2nd District Court of Appeal Case No. B279156
DEMAND MEDIA INC., ENOM INC.	)	[Los Angeles County Superior Court Case No. BC610801]
Respondents.	)	

PETITION FOR REVIEW

APPEAL FROM THE DISMISSAL OF THE JUST CASE BY THE SUPERIOR COURT,
IN AND FOR THE COUNTY OF LOS ANGELES
TERRY GREEN, JUDGE PRESIDING.
APPEAL FROM THE DISMISSAL OF THE NOTICE OF APPEAL
WITHOUT "ORDERLY OPINION" BY THE SECOND APPELLATE DISTRICT.
DENNIS PERLUSS, JUDGE PRESIDING.
DECLARATORY RELIEF FROM: PAUL TURNER AND PARTNERS' ORDER IN 1995
IN WHICH THE 3 JUDGES KNOWINGLY ACTED
WITHOUT JURISDICTION.
DECLARATION OF **C.C.P. 391 ET SEQ. UNCONSTITUTIONAL** BECAUSE THOSE
SECTIONS VIOLATE BOTH U.S. AND CA CONSTITUTIONS IN MANY RESPECTS.
ANY PERSON (INCLUDING ANY JUDGE) WITH AN AVERAGE INTELLIGENCE
CAN UNDERSTAND UNLESS SUCH PERSON DOES NOT HAVE AN ATOM OF
HONESTY i.e. HE OR SHE IS TOTALLY DISHONEST
AND CORRUPT FROM HEAD TO TOES.

SAM MASSIAH
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ISSUES PRESENTED

1. THE CRYSTAL CLEAR: **UNCONSTITUTIONALITY** OF C.C.P. **391 et Seq.**

Caveat Lector*: Capitalized and or bold and or underlined words are for* ***EMPHASIS***
Although there are at least 5 dozen reasons said statutes are in direct conflict with both California and US constitutions I will limit my legal discussion to just some. Each one of those reasons is more than sufficient for you to declare, truthfully and honestly, said statutes **UNCONSTITUTIONAL.** I am aware that all "low life" persons benefit from those statutes and they are many and powerful. However, because "low lives" benefit that does NOT make those statutes constitutional.

1. There is no provision in either constitution to treat plaintiffs in a COMPLETELY different way. Plaintiffs in Pro Per versus plaintiffs who are represented by attorneys. As a matter of fact both constitutions MANDATE EQUAL PROTECTION.
2. 5 cases in 7 years is just ARBITRARY and not a true measure of vexation, there is NO correlation soever, e.g. why not 7 cases in 7 years (seven years being Biblical) The better measure is: if a defendant or defendants sue a particular plaintiff (who sued and lost) for malicious prosecution and such individual plaintiff loses 5 malicious prosecution cases in 7 years then and only then that indicate that such plaintiff was filing UNMERITORIOUS OR MALICIOUS CLAIMS against one or more defendants, now there is **correlation**.
3. For the sake of argument if the 5 cases in 7 years is a TRUE MEASURE / THE STANDARD of vexation Then that measure **MUST** APPLY NOT ONLY TO **ALL** PLAINTIFFS **EQUALLY** BUT ALSO TO ATTORNEYS AS WELL because there are dozens of published cases which state: "Pro Per litigants are held to **same standards** as attorneys. E.g. [Kobayashi V. Superior Court, 175 Cal. App. 4th 536] A lot of times judges contradict themselves and each other and the laws as well. The fact is anyone can make any linear measurement using inches, feet, yards, etc. because those are TRUE MEASURE unlike the fake measure of 5 cases in 7 years.
4. In published cases judges say: "When a vexatious litigant knocks on the courthouse door with a colorable claim, he may enter." In Re R.H. 170 Cal. App. 4th 678; 88 Who are they trying to fool ?! To my knowledge no judge of the Superior court or of courts of appeal EVER granted any such request. For the sake of argument if those judges are truthful then what is the problem in applying the same **standard** to every

plaintiff whether represented by an attorney or not. Additionally, the same **standard** should apply to attorneys or to NONE at all. **Honesty** is the quality of uncorrupt people who have moral values and not devoid of integrity and not corrupt.

5. Bullies such as in schools **only** pick on small, vulnerable or persons who have less power. The legislators acted exactly in the same fashion like BULLIES picked on Pro Per litigants, small in number evidenced by the infamous vexatious litigant list which in 30 years accumulated about 2000 persons. As bullies they could not pick on the vast majority of plaintiffs who are represented or pick on attorneys for that matter who are more than 300,000 in California alone. Let the truth be told: BULLIES do not DARE to pick on the powerful or a great number of individuals.
6. Those statutes also clearly **DISCRIMINATE** based on economical status. Obviously Pro Per litigants DO NOT HAVE THE MONEY TO HIRE A LAWYER. Of coarse any of those pro per persons including me would like to have attorney's representation if such attorney would take the case pro bono OR take the money in arrears. Clear discrimination which is prohibited by **both constitutions** and strictly forbidden by any GOOD PERSON or any person who is not crooked or corrupt. **The judicial system (courts) is not made for the rich only.**
7. As a matter of the fact both constitutions **guarantee** the **RIGHT** to petition the government for redress of any grievance to every citizen. There is no provision in either constitution that said right can be shackled, hindered or hampered in any way.

2. THE TOTAL LACK OF JURISDICTION OF ANY STATE COURT OF APPEAL TO MAKE ORIGINAL FINDING OF VEXATION OF ANY LITIGANT

C.C.P. **391.1** states: "In any litigation pending in any court of this state, **at any time until final judgment is entered**, a **defendant** may move the court, **upon notice** and **hearing**, for an order requiring the plaintiff to furnish security …."
Any person with an average I.Q. or a bit less than average understands that a motion has to be filed by a **defendant** [not appellant or respondent] before the final judgment is **entered** and to have a **hearing** conducted all in the trial court. Courts of Appeal DO NOT ENTER JUDGMENTS, it renders opinions. THEREFORE, a court of appeal is totally without JURISDICTION TO MAKE ORIGINAL FINDINGS. Students of law school are taught in the first year that JURISDICTION is what gives the judge the power to act and **without JURISDICTION** any decision made is NULL AND VOID PERIOD. Thus, Paul Turner and partners making three names one person and making that person vexatious litigant is

VOID Obviously that decision of 1995 affected my case in a big way. That decision must be declared **VOID.** Moreover, the California Constitution sets the Jurisdiction of courts in Article VI. It is clear that any court of appeal does not jurisdiction to make original findings of facts i.e. it is not a trial court. It is known that a court of appeal is a **reviewing court**.

3. DERELICTION OF DUTY AND MISCARRIAGE OF JUSTICE BY TERRY GREEN, THE SUPERIOR COURT JUDGE WHO PASSED ON THE MERITS OF THIS CASE

The superior court judge in this case passed on the merits of this case despite the following:

1. A TRIAL BY JURY WAS DEMANDED
2. THE CASE WAS IN THE EARLY DISCOVERY STAGES
3. NO EVIDENCE, OBVIOUSLY, WAS PRESENTED

Obviously, what judge Terry Green did in this case is dereliction of his duty and flagrant miscarriage of justice. It appears that there are no precedent cases in which the trial judge did what judge Green did.

4. DERELICTION OF DUTY AND MISCARRIAGE OF JUSTICE BY AN APPELLATE JUDGE WHO NEVER EVER ALLOWED ANY PERSON, ON THE INFAMOUS CUMULATIVE LIST MAINTAINED BY THE JUDICIAL COUNCIL TO HAVE AN OPINION BASED UPON <u>HONEST</u> REVIEW

Despite the fact that an appeal is a litigation however it is **not** new litigation because new litigation is based on new facts. An appeal is the second step or continuation of the same litigation. IT IS **A DUE PROCESS PROCEDURE** TO ENSURE THAT MISTAKES OF LAW OF THE LOWER COURT ARE CORRECTED. IT IS **INTEGRAL** AND ESSENTIAL. All States' courts and Federal courts have an appeal (**DUE PROCESS**) essential to the administration of JUSTICE. That appeal must not be blocked by any judge and that is <u>yet another problem</u> with those unconstitutional statutes. Furthermore, judge Dennis Perluss when he dismissed my notice of appeal, he stated "Appellant's response to this Court's Vexatious Litigant Notice <u>fails to meet the burden of showing that the appeal has **merit**</u> …" First: In order for anyone to meet any burden on the merits there must be a written measure of what it takes to meet that **phantom** standard or scale, that is yet another problem with those statutes. Remember that those statutes apply to pro per only so there should be a written scale as to how to meet that burden otherwise it is up to whims of judges to say anything about a <u>phantom burden</u>. Additionally, what Mr. Perluss stated is directly contradicted by a published opinion: **In re R.H.** ***170 Cal. App. 4th 678; 88 Cal. Rptr. 3d 650*** **that court stated "**Thus, by *section 391.7*'s own terms, the presiding justice in determining

whether to permit the appeal to proceed **does not pass on its merits**. The presiding justice **merely determines if there is an issue to review on appeal**." Obviously, Perluss talks about **merit** while the above cited case **forbid** making any decision based on the **merits**. Judges are known to contradict themselves and other judges. That is yet another problem.

5. MONEY SANCTIONS ARE TREATED LIKE MONEY JUDGMENT AND CANNOT BE INCREASED IF NOT PAID

Judge Green increased the $250 money sanctions to $750 when they were not paid despite:

a. There was a stay in effect imposed by the notice of vexatious litigant.
b. Money sanctions are treated as money judgment i.e. cannot be increased if not paid. Petitioner did not find a case on point to cite in this regard.
c. Those sanctions were imposed despite the fact that defendants failed to fulfill the "meet and confer" requirement.
d. Certainly sanctions should not be imposed when sanctions would create Hardship.

WHY REVIEW SHOULD BE GRANTED

1. As you see, the above published case **In re R.H.** ***170 Cal. App. 4th 678*** **Forbids** making decisions based on the merits but merely determining if there is an issue to review on appeal. In order to resolve that **contradiction** between the above cited case and what happened in my appeal, this court SHOULD GRANT THE REVIEW.
2. The crystal clear **UNCONSTITUTIONALITY** OF C.C.P. **391 et Seq.** based on each point stated supra and each point is more than sufficient to <u>honestly</u> declare said statutes <u>unconstitutional</u> because HONESTY, INTEGRITY and JUSTICE **dictate** that. There is no outside pressure on this court to appease or please the low lives who benefit from those statutes. **Honesty** is far more important than, for you to turn blind eyes to the <u>flagrant violation of both constitutions</u>. The length of time those statutes been in effect is indicative of corruption, dishonesty and powerful low lives getting their way bullying the decent, the meek and the less powerful. <u>It is time to end the corruption and dishonesty in all branches of the state government.</u>
3. The opinion of this court after granting and reviewing this petition has wide spread impact and the 2000 persons on the infamous list will have their constitutional rights restored whose civil rights been flagrantly violated and wrongfully branded on a permanent cumulative infamous list.
4. The United States house of representatives and Senate fully aware of those vexatious statutes for long time **<u>REFUSED</u>** <u>TO ENACT SIMILAR FEDERAL LAW</u> because they are mindful of any such law would <u>CLEARLY VIOLATE THE FIRST AND</u>

SEVENTH AND FOURTEENTH AMENDMENTS OF THE US CONSTITUTION. US representatives and senators tend to have higher I.Q. than CA legislators who were faced with very small problem of few litigants who abuse the system but being lower I.Q. they failed miserably to enact a law which is meaningful and is not in violation of both constitutions.

5. Very few states like Hawaii and Florida copied 391 et Seq. verbatim. Few more modified said statutes to alleviate the conflict with the US Constitution, however the great majority of states do not have similar or any such statutes. Clearly, those states' legislators who did not enact any such statutes have higher I.Q. than California's.

INTRODUCTION

Defendants issued plaintiff a **bad check** (bounced back unpaid). As a direct and proximate result of said bad check plaintiff suffered damages. Petitioner is counting on the Chief Justice of this court, being from Philippine background she knows that GOD must be obeyed rather than man. She knows every human is going to stand before the judgment seat of Christ. GOD is the **real JUDGE** and his judgment is JUST. He will reward everyone according to his deeds. Human judges are going to be judged according to what they did in the cases before them, so be aware of HONESTY. No wonder California Constitution starts with: "We, the People of the State of California, **grateful to Almighty God** for our freedom, in order to secure and perpetuate its blessings, …"

STATEMENT OF THE CASE

Defendants issued plaintiff a **bad check** (bounced back unpaid). As a direct and proximate result of said **bad check** plaintiff suffered damages. I filed the lawsuit on 2/19/16. On 4/13/16 defendants filed a demurrer and motion to strike. In the early Discovery stages defendants filed 3 motions to compel three forms of discovery (over 400 pages) on 6/17/16. I filed my opposition to said 3 motions on 7/18/16. Judge Green granted said motions **despite the clear fact that defendants did not fulfill the "meet and confer" requirement** and imposed Sanctions in the amount of $250 on or about 8/1/16. Before the expiration of the period judge Green allowed in his order, defendants filed "Notice of vexatious litigant" on or about 8/16/16. According to law every proceeding is stayed. **On 8/18/16 I filed first amended complaint**. I filed 2 Mandatory judicial notices on 8/23/16 and 9/7/16 mostly regarding the burden of proof based on evidence code sections. Judge Perluss decision is attached to this petition and it speaks for itself. However, he turned blind eyes to the action of Paul Turner which was made without JURISDICTION thus VOID. Being above average intelligence he ignored the UNCONSTITUTIONALITY OF C.C.P. 391 et Seq.

LEGAL DISCUSSION

Because judge Green's actions after filing the notice of vexatious litigant including the dismissal of the case revolved around said notice, therefore petitioner hereby incorporates by this reference all that has been stated hereinabove as if same is stated herein in full to save paper and the environment. Moreover, I did not get an opinion from the appellate court therefore, I request this court to remand the case to the court of appeal to make an opinion after briefing. However, because this petition is technically to review what judge Perluss did I shall add more legal discussion infra. Furthermore, judge Green sanctioned the money sanctions because it was not paid despite the stay and hardship. Furthermore, Judge Green OSC issued on or about 9/1/16 entirely lacks the reason of the OSC Re: Dismissal i.e. order to show cause **WHY (missing)** the court wanted to dismiss the case. Please notice that the clerk of that courtroom made her minute orders as Benjamin Soffer told her. Earlier in the case Mr. Soffer used to clarify or add things in his notice of ruling That matter is still under investigation. There was a court reporter however when I contacted said reporter, she refused to call me back, hence there is no transcript of the latter hearings. One more thing is: What **evidence** Did Benjamin soffer provide to the court that Sam Massiah is **all** the names Soffer told the clerk to write in the minute order which was made on or about 9/15/16. Because Paul Turner order of 5/12/95 (which is **VOID**) affected my case hence this court must grant the review. Obviously, Ben Soffer did not produce COMPETENT EVIDENCE to prove that those names are the same person. Judge Purless turned blind eyes to what had been stated in my response to that court's notice of vex. Litigant. Let the truth be told that judge Perluss NEVER allowed any appeal to proceed, he made his decision based upon PHANTOM burden contradicting In Re R.H.

Rehearing was requested but was denied by the court of appeal.

CONCLUSION

For the reasons stated supra, petitioner hereby requests that this court grant review to resolve these important issues which have constitutional dimension and those different appellate districts have conflict, those unprecedented and those which branded good citizens and stripped them of their civil rights. I am asking all of you to do the right thing then you **earn** the title "honorable"

Dated: May 1, 2017 BY: