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16 UNITED STATES DISTRICT COURT
17 SOUTHERN DISTRICT OF CALIFORNIA

18 CALIFORNIA COALITION FOR
19 FAMILIES AND CHILDREN, et al.,

20 Plaintiffs,

21 vs.

22 SAN DIEGO COUNTY BAR
23 ASSOCIATION, a California
24 Corporation, et al.,

25 Defendants

26 Case No. 13-cv-1944-CAB (BLM)
27 Judge: Hon. Cathy Ann Bencivenga

28 EX PARTE APPLICATION FOR
BRIEFING PAGE LIMIT EXTENTION

Complaint Filed: August 20, 2013

29 **I. APPLICATION**

30 Plaintiff Colbern C. Stuart (“STUART”) hereby applies to the Court ex parte
31 for leave to file an over-length brief in excess of the 25 page limit imposed by Local
32 Rule 7(h) in opposition to Defendants’ the San Diego County Superior Court, Robert
33 J. Trentacosta, Michael M. Roddy, Lisa Schall, Lorna A. Alksne, Christine K.
34 Goldsmith, Jeannie Lowe, William H. McAdam, Jr., Edlene C. McKenzie, and Joel
35 R. Wohlfeil (collectively, "SUPERIOR COURT DEFENDANTS ") Motion to

1 Dismiss Complaint (“MTD”) (Dkt.# 16). Ex parte relief is requested as Defendants’
2 MTD is a sweeping, yet superficial, attack on each of the 34 causes of action in the
3 Complaint, necessitating a detailed response. Plaintiffs have attempted informal
4 resolution by stipulation detailed below. Defendants have categorically refused,
5 insisting on formal resolution.

6 Plaintiffs must file in opposition by **Friday, November 8, 2013**, yet as
7 explained below cannot do so on the broad attack in the MTD within the 25 page
8 limit imposed by Local Rule 7(h). Plaintiff therefore has no alternative than to apply
9 to the Court for ex parte relief in time to comply with the **Friday, November 8, 2013**
10 filing deadline.

11 All appearing Defendants have received notice of this Application, the issues
12 raised herein, and proposed informal solutions thereto, by letter dated October 28,
13 2013 (Exhibit “A”). Defendants have expressed their refusal of informal solutions
14 and intent to oppose this Application by letter dated October 30, 2013. Exhibit “B”
15 hereto.

16 **A. Background**

17 On August 20, 2013, Plaintiffs California Coalition for Families and Children,
18 a Delaware Public Benefit Corporation (“CCFC”), Lexevia, PC, a California
19 Professional Corporation (“LEXEVIA”), and Colbern C. Stuart, an individual
20 (“STUART”) filed the instant Complaint (Dkt#1). The Complaint asserts 34 Counts
21 seeking compensatory damages under federal law and related state law, and two
22 Counts seeking injunctive relief under federal law, against 51 named Defendants, and
23 numerous unknown defendants. The federal law Counts are asserted under the Civil
24 Rights Act of 1871, the Racketeering and Corrupt Organizations Act of 1970
25 (“RICO”), the Lanham Act, the Declaratory Judgment Act, and the Criminal and
26 Penal Code. The Complaint identifies the commission of 28 categories of related
27 “predicate crimes” under *18 U.S.C. § 1961(5)* and sets forth 34 federally-indictable
28 civil rights Counts (“FICRO”) under 18 U.S.C. §§ 241, 242, and 371, which mirror

1 the civil rights Counts seeking compensatory relief. The Complaint totals 177 pages,
2 and referenced or incorporated four dozen exhibits.

3 On September 30, 2013, Defendants, the San Diego County Superior Court,
4 Robert J. Trentacosta, Michael M. Roddy, Lisa Schall, Lorna A. Alksne, Christine K.
5 Goldsmith, Jeannie Lowe, William H. McAdam, Jr., Edlene C. McKenzie, and Joel
6 R. Wohlfeil filed a Motion to Dismiss Complaint (“MTD”) (Dkt.# 16) requesting the
7 Court dismiss the entire action with prejudice.

8 As detailed in the M&C, Defendants cast the MTD not as a focused attack on
9 their strongest points, but instead as a wildly sweeping attack on each and every of
10 the 34 causes of action in the Complaint. In their “scattergun” approach, they grossly
11 misrepresent the allegations in the Complaint, artificially constructing a straw man by
12 misconstruing the averments in the Complaint as “nothing more than” the arguments
13 they hope to defeat. The result is a wildly tangled straw man of misstatements of law
14 and fact which necessitates an unnecessary, burdensome walk-through of each of the
15 34 Counts in the Complaint, the relevant legal theories, and relevant facts. Plaintiff
16 has detailed these matters in the letter attached as Exhibit “A”.

17 **B. Grounds for Relief**

18 The grounds for this Application for Leave are that Plaintiff cannot adequately
19 oppose the wildly misguided attack on the entire Complaint within the page limits
20 imposed by Local Rule 7(h). The MTD requests dismissal of the Complaint “with
21 prejudice”—relief which is rarely available at this, the Rule 12 stage, on an initial
22 Complaint. The MTD is accompanied by witness declarations and evidence
23 improperly sought to be introduced by a Request for Judicial Notice evidencing
24 testimony and documents which are highly controversial hearsay without foundation
25 or even in some cases relevance, and therefore inadmissible at the Rule 12 or any
26 stage. The MTD moves under Rule 12(b)(6) yet presents arguments and authority
27 germane to other Rules—Rule 12(e) for a more definite statement, or Rule 12(f)
28 motion to strike. The MTD raises and requests resolution of affirmative defenses for

1 which it has, but has not carried (and cannot attempt to carry at this stage), the burden
2 of proof. (See Exhibit “A” detail).

3 In short, the MTD is so superficial and misguided that it blunders over a dozen
4 arguments attacking each of the 34 Counts, most entirely meritless, and the remaining
5 easily resolvable by leave to amend, or simply waiver without prejudice to raise at a
6 later stage.

7 **C. Efforts at Informal Resolution**

8 STUART has attempted informal resolution, delivering on October 28, 2013, a
9 detailed meet and confer letter setting forth accurate arguments and explanations, and
10 inviting further discussions to resolve matters informally. (“M&C”)(Exhibit “A”
11 hereto). The M&C sets forth Defendants’ errors, misstatements, and misguided
12 requests for dismissal, provides detailed explanations of why the arguments are
13 infirm, and suggests informal resolution without judicial intervention. In the M&C
14 Plaintiff offered informal resolution consisting of (1) withdrawal of inadmissible
15 evidence, declarations, and meritless arguments in the MTD without prejudice, (2)
16 stipulation for leave to amend the Complaint without need for judicial intervention,
17 and invited further negotiations. The detailed 105 page M&C, incorporated herein by
18 reference, explained why the meritless arguments are misguided, suggested that most
19 arguments are not waivable by Defendants and thus could be raised at later stages in
20 the litigation if still desired, acknowledged that certain attacks would be resolved by
21 leave to amend, and requested a stipulation to do so without absorbing judicial and
22 party resources. See Exhibit A, pp. 104-05. One day later, apparently without even
23 reading much less digesting the lengthy meet and confer attempt, Defendants
24 categorically denied any response, any informal resolution, and insisted on placing all
25 issues before the Court for formal resolution.

26 **D. Request for Relief**

27 Plaintiff is distraught at Defendants’ refusal to save the Court, parties, and
28 counsel untold effort to address what appear to be meritless issues. Yet at Defendants

1 insistence, the sweeping attacks of the MTD must be confronted and fully briefed.
2 As Defendants move on grounds of immunities and standing for which each party is
3 entitled to interlocutory appeal, it is incumbent on parties, Court, and counsel to
4 diligently analyze appealable issues.

5 Defendants' refusal to cooperate leaves Plaintiff in a dilemma—under the 25
6 page limit imposed by Local Rule 7(h), even the most efficient briefing cannot
7 adequately assist the Court in making informed, accurate decisions on each and every
8 attack, and while many are, it is submitted, meritless or otherwise easily disposed of,
9 because Defendants request dismissal “with prejudice”, the stakes for Plaintiff are
10 high.

11 Plaintiff therefore reluctantly hereby requests leave to file an over-length brief
12 in excess of the limits imposed by Local Rule 7(h), consistent with the arguments
13 articulated in the M&C, and the requests made at pp. 1-2 and 104-105: Plaintiffs
14 requests leave to file an Opposition on or before the existing deadline of **Friday,**
15 **November 8, 2013**, not to exceed 35 pages, and offers to stipulate that Defendants
16 shall have a reciprocal page limit extension in Reply briefing not to exceed 25 pages.

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DATED: October 31, 2013

By: /s/ Colbern C. Stuart, III

Colbern C. Stuart, III, President,
California Coalition for Families and
Children
in Pro Se

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the court's CM-ECF system per Federal Rule of Civil Procedure 5(b)(2)(E). Any other counsel of record will be served by facsimile transmission and/or first class mail this 31st day of October, 2013.

DATED: October 31, 2013

By: /s/ Colbern C. Stuart, III

Colbern C. Stuart, III, President,
California Coalition for Families and
Children
in Pro Se

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