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Attorney/ Plaintiff, *Pro Se*

FILED

MAY 19 2016

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
(Oakland/SF Division)**

Case No. 3:15-cv-5261 WHA

TIMOTHY A. DeWITT, on behalf
of himself and others similarly situated,

Plaintiff,

vs.

THREE-JUDGE CASE (28 U.S.C. §2284)

REQUEST THREE-JUDGE COURT ACT *SUA SPONTE* TO REVIEW AND VACATE INITIAL SINGLE JUDGE'S ORDER AND DISMISSALS OF JANUARY 12, 2016

Date: TBD

Time: TBD

Place: TBD

Action Filed: November 17, 2015

CALIFORNIA CITIZENS REDISTRICTING
COMMISSION, a California agency;
SECRETARY OF STATE OF THE STATE
OF CALIFORNIA, Alex Padilla;

And DOES 1 through 100, Defendants.

//

1 **TO THE COURT, ALL PARTIES, AND THEIR COUNSEL OF RECORD,**
 2 please take notice that, pursuant to 28 U.S.C. §2284 (and the Appellate Jurisdiction and Due
 3 Process Clauses, and the Separation of Powers doctrine, of the U.S. Constitution), Plaintiff will
 4 and hereby does request that the Three-Judge Court (which six months after filing, still has yet to
 5 be convened in this action) act *sua sponte* to review and vacate the initial single-judge's dismissals
 6 and Order of January 12, 2016, in this action. (Dkt. #17.) (28 U.S.C. §2284(b)(3) ("Any action of a
 7 single judge may be reviewed by the full court at any time before final judgment.").)

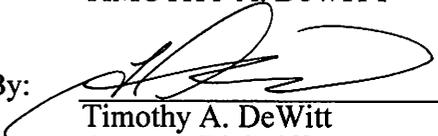
8 The single-judge's Order (itself entered *sua sponte* and without any prior notice to
 9 Plaintiff) dismissing fully nine of ten of Plaintiff's original Claims for Relief in this action
 10 (including his original Seventh Claim based in part on the First and Nineteenth Amendments, not
 11 discussed in court's order), must be vacated, among other reasons, because the Court, still sitting
 12 as a single-judge, entered the Order without having any jurisdiction to do so under 28 U.S.C.
 13 §§2284 & 2284(b)(3) ("A single judge shall not ... enter judgment on the merits.).

14 The Court's order and dismissals came some seven weeks after the filing of
 15 Plaintiff's Request for a three-judge court in the action, the Court having made no determination
 16 (save for, possibly, but nonetheless ineffectively, it's own attempted interlocutory dismissals at
 17 issue here) that a three-judge court was *not* required under 28 U.S.C. §2284(b)(1), and having
 18 itself (in similar "bootstrap" fashion) failed "immediately" to notify the Chief Judge of the Ninth
 19 Circuit Court of Appeals of the necessity of convening a Three-Judge Court. (28 U.S.C.
 20 §2284(b)(1) ("immediately notify the chief judge of the circuit"); see also *Shapiro v. McManus*,
 21 577 U.S. __ (Dec. 8, 2015) (unanimous, per Scalia, J.).)

22 Dated: May 19, 2016.

23 Respectfully submitted,

24 TIMOTHY A. DeWITT (CA 150631)

25 By: 

26 Timothy A. DeWitt
 Attorney/Plaintiff, *Pro Se*

CERTIFICATE OF SERVICE BY MAIL

I am a citizen of the United States and a resident of the State of California. I am over the age of 18 and the attorney/plaintiff in the within action. My address is 2729 Dwight Way, No. 402, Berkeley, CA 94704-3100.

I am familiar with the business practices of this office for collection and processing of mail with the United States Postal Service, whereby official mail is attached with the appropriate postage and placed in a designated area. Mail so collected and processed is deposited with the United States Postal Service that same day and in the ordinary course of business. On the below date, I served a true and correct copy of the accompanying

REQUEST THREE-JUDGE COURT ACT *SUA SPONTE* TO REVIEW AND VACATE INITIAL SINGLE JUDGE'S ORDER AND DISMISSALS OF JANUARY 12, 2016

by placing a true copy thereof in a sealed envelope in the designated area for outgoing mail addressed as follows:

**George Waters
Deputy Attorney General
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550**

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

Executed this 19th day of May, 2016, at Berkeley, California.


Timothy A. DeWitt