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In the Senate of California

Richard J. McDonald) CASE NO. _____
) Citation No., _____

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Plaintiff)

vs.)

Judge _____)

Respondent)

) NOTICE OF
) IMPEACHMENT
) ACCUSATIONS
) (Const. Art, IV, §18)
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STATEMENT OF CHARGES

TO THE SENATE OF CALIFORNIA, GREETINGS:

The Accused citizen hereby makes the following accusations against Judge _____,
(hereinafter referred to as "Judge") Los Angeles County Municipal Court, California.

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1. The Judge was practicing law from the Bench on ____ by denying the Accused demurrer that was not traversed.

2. The Judge was acting as counsel/co-counsel for the Plaintiff in his own courtroom in matters pending before him in Case Number _____ on the above date.

3. The Judge was receiving pay or fees from the Plaintiff in the above entitled matter

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for performing such duties from the bench.

4. The Judge while sitting on the bench ruled in violation of the Constitution.

5. The judge by acting as counsel/co-counsel was in violation of the Separation of Powers Doctrine.

6. The judge was exercising executive functions in behalf of the State of California,

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while in his capacity as a Judge of the judicial branch.

7. The judge denied an opportunity to be heard, when he arbitrarily denied the demurrer and rendered judgment against the Accused.

Thus, for the above facts, which constitute a denial of substantive Due Process, Citizen Richard J. McDonald requests that the Senate of California investigate the above allegations and

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if found true to institute impeachment proceedings against the above named judge for violation of the separation of powers doctrine.

Dated ___ 1994

Richard J. McDonald, Citizen

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POINTS AND AUTHORITIES

A judge sitting on the bench is not an active member of the bar, and cannot be both the judge, jury and prosecutor at the same time, this smacks of a similar type of situation that has happened before it was called "**STAR CHAMBERS.**" Where is the Due process??

A judge was guilty of prejudicial conduct where, in an action for unlawful detainer of a

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dwelling in which defendants alleged a breach of implied warranty of habitability, the judge undertook a collateral investigation of the premises and thereby abdicated his responsibility for deciding the parties' dispute on the pleadings and evidence brought before him. Wenger v. Commission on Judicial Performance, (1981) 29 C3d. 615, 175 Cal.Rptr. 420, 603 P2d. 954.

This is similar to the present case, where the judge does not rule on the pleadings with neutrality,

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but, practices law from the bench by denying pleadings that are unopposed. To deny any motion that is unopposed by the prosecution, without the formal filing of pleading in opposition is outright favoritism and petty tyranny for the purpose of raising revenue. Similar to "I am the King of the Bench, and I can do no wrong."

A judge who is a taxpayer of a city, is interested in the litigation, and disqualified from

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sitting or acting therein. Meyer v. San Diego, (1898) 121 C. 102, 53 P. 434, 66 Am.St. Rep. 22, 41 LRA 762. This is also true where a judge is an agent of the State, and practices law from the bench he then as counsel for the State in his rulings, and has an "Interest" in the outcome of the case.

The most minute interest is sufficient to disqualify. The Municipal courts are more

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interested in raising revenue than dispensing justice. It is a well known fact that the courts are in business to make a profit so that the salaries of government employees can be paid.

A municipal court judge performace in raising revenue is one of the main items for promotional purposes, it is without question that municipal courts are in business for the purpose of raising revenue, not dispensing justice.

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Accordingly, at common law, citizens who were tax payers were incompetent to sit as judges in cases in which their own town or municipality was a party in interest." Clark v. Lamb, 2 Allen 396 (Mass); Wood v. Stoddard, 2 Johns 194 (N.Y.); Tollard v. Comm'r of Berkshire Co., 13 Gray 13 (Mass); Peck v. Excess Freeholders, 21 N.J.L. 656; City of London v. Wood, 12 Mod. 669 (England).

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A judge must be on his guard not to compromise the independence of the court. Wenger v. Commission on Judicial Performance, (1981) 29 C3d. 615, 175 Cal.Rptr. 420, 603 P2d. 954.

A judge who continually denies motions without opposition from the People, is guilty of favoritism, and petty tyranny where he continually acts as counsel for the People. It is the duty of the court to preserve the integrity and independence of the judiciary. Spruance v. Commission

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on Judicial Qualifications, (1975) 13 C3d. 778, 119 Cal.Rptr. 841, 532 P.2d. 1209.

The bias or prejudice which may disqualify a judge must be of a character calculated to seriously impair his partiality and sway his judgment. Evans v. Superior Court, (1930) 107 CA 372, 290 P. 662. Thus, a judge who acts as counsel for the State by being the prosecutor (practicing law from the bench,) and the judge at the same time could only be biased.

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"Bias is defined as a mental predilection of prejudice; a leaning of the mind; a predisposition to decide a cause or an issue in a certain way, which does not leave the mind perfectly open to conviction. Lemen, In Re, (1980) 113 CA3d. 769, 170 Cal.Rptr. 642.

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CERTIFICATE OF SERVICE

I, xxxxxxxxxxxxxxxxxxxxxx, under penal of perjury, declare that I am a Citizen of California, domiciled in California and a Citizen of one of the several states under the United

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States Constitution, Article IV, Sec. 2, Clause 1, and am not a citizen of the United States (District of Columbia) and a subject of Congress under the 14th Amendment, and a resident under the 14th Amendment in the State of California.

It is hereby certified that service of this _____
have been made on the Plaintiffs and interested parties by personal service or by mailing one

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copy of each thereof, on this _____ day of _____, 1994, in a sealed envelope with postage prepaid, properly addressed to them as follows:

The Judicial Council Presiding Judge of the
Sacramento, California Los Angeles County

Municipal Court
111 N. Hill St.

City Attorney Office Los Angeles, California
14400 Irwin St. Mall

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Van Nuys, California Supreme Court of California

Attorney General of California
1515 K. Street
Sacramento, California

303 Second St. South Tower
San Francisco, California
94107

Dated _____, 1994

Richard J. McDonald
Citizen of California

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In Pro Per, Sui Juris