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11 **UNITED STATES DISTRICT COURT**
12 **SOUTHERN DISTRICT OF CALIFORNIA**

13 DARRYL COTTON,

14 Plaintiff,

15 v.

16 LARRY GERACI, et al.,

17 Defendants.
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Case No. 18-cv-00325-TWR-DEB

**REPLY IN SUPPORT OF MOTION TO
DISMISS FIRST AMENDED
COMPLAINT WITH PREJUDICE BY
DEFENDANT JUDGE JOEL R.
WOHLFEIL**

Date: April 21, 2021

Time: 1:30 p.m.

Crtrm: 3A (Schwartz)

Judge: The Honorable Todd W. Robinson

[NO ORAL ARGUMENT REQUESTED]

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I.

INTRODUCTION

Plaintiff Darryl Cotton filed this 42 U.S.C. § 1983 action against Judge Wohlfeil after the California Court of Appeal dismissed his appeal from the judgment that was entered in *Cotton I*—the state court civil action over which Judge Wohlfeil presided.¹ Plaintiff requests this Court to vacate the judgment in *Cotton I*, order a new trial, and preclude Judge Wohlfeil from presiding over the new trial. Judge Wohlfeil filed a motion to dismiss the First Amended Complaint (“FAC”) under judicial immunity, Eleventh Amendment immunity, the *Rooker-Feldman* doctrine, and for failure to state a cognizable claim. (Memorandum of Point and Authorities in support of Motion to Dismiss First Amended Complaint with Prejudice by Defendant Judge Joel R. Wohlfeil (“MTD”), ECF No. 50-1.)

While Plaintiff’s Opposition (Darryl Cotton’s Opposition to Judge Joel R. Wohlfeil’s Motion to Dismiss First Amended Complaint and Request for Sanctions (“Opp’n”), ECF No. 55) is emotionally fueled and showcases his animosity towards Judge Wohlfeil,² it fails to overcome these fatal defects. The Opposition does not dispute, and in fact confirms, that this action solely arises from the rulings Judge Wohlfeil made in his capacity as a state court judicial officer and that the instant matter seeks to vacate the final judgment entered in *Cotton I*. Accordingly, and notwithstanding Plaintiff’s frivolous and legally erroneous assertions to the contrary, this action is barred as a matter of law as against Judge Wohlfeil and should be dismissed with prejudice.

¹ The California Court of Appeal dismissed the appeal on February 11, 2020 and a remittitur was issued on May 14, 2020. (Defendant Judge Joel R. Wohlfeil’s Request for Judicial Notice in Support of Motion to Dismiss First Amended Complaint with Prejudice, Ex. D, ECF No. 50-2.) Although the instant action was filed in February 2018, Judge Wohlfeil was first named in this action via the First Amended Complaint, filed on May 13, 2020, and was not served with the summons and complaint until December 16, 2020. (Plaintiff’s First Amended Complaint, ECF No. 18.)

² Plaintiff refers to Judge Wohlfeil as “an idiot” and proclaims he “hate[s] Wohlfeil and wish[es] him criminal prosecution.” (Opp’n, ECF No. 55.)

1 Finally, Plaintiff's request for Rule 11 sanctions, which he included in the
 2 Opposition, is procedurally and substantively defective. It is procedurally improper
 3 because, among other things, Plaintiff was required to but failed to file his sanctions
 4 request as a separate motion and serve a copy on Judge Wohlfeil at least twenty-one
 5 days before filing his request. It is substantively without merit because it is premised on
 6 his assertion that Judge Wohlfeil's motion to dismiss is frivolous, which it is clearly not.

7 II.

8 ARGUMENT

9 A. Absolute Judicial Immunity Applies in this Action.

10 The only two instances in which judicial immunity is overcome is where the judge
 11 "acts in the 'clear absence of all jurisdiction,' [citation], or performs an act that is not
 12 'judicial' in nature. [Citation.]" *Ashelman v. Pope*, 793 F.2d 1072, 1075 (9th Cir. 1986)
 13 (en banc). As discussed in the MTD, this action arises from Judge Wohlfeil's statements
 14 and rulings in *Cotton I*, which were judicial in nature, while he was acting within his
 15 jurisdiction. (MTD, ECF No. 50-1 at 5-7.) The Opposition does not dispute this.
 16 Instead, relying on *Pulliam v. Allen*, 466 U.S. 522, 523 (1984), Plaintiff contends that
 17 judicial immunity does not apply to actions seeking declaratory or prospective injunctive
 18 relief. (Opp'n, ECF No. 55 at 6-7.)

19 Contrary to Plaintiff's assertion, *Pulliam* does not preclude the application of the
 20 doctrine of absolute judicial immunity to this case. *Pulliam* was effectively abrogated by
 21 Congress when it enacted the Federal Courts Improvement Act of 1996, Pub.L. No.
 22 104-317, 110 Stat. 3847 (1996), which amended 42 U.S.C. § 1983 to provide that in
 23 "any action brought against a judicial officer for an act or omission taken in such
 24 officer's judicial capacity, injunctive relief shall not be granted unless a declaratory
 25 decree was violated or declaratory relief was unavailable." 42 U.S.C. § 1983; *see also*
 26 *La Scalia v. Driscoll*, No. 10-CV-5007, 2012 WL 1041456, at *7 (E.D.N.Y. Mar. 26,
 27 2012); *Caldwell v. Downs*, No. 2:17-CV-1250, 2017 WL 2654819, at *2 (E.D. Cal. June
 28 20, 2017); *Krupp v. Todd*, No. 5:14-CV-0525, 2014 WL 5165634, at *4 (N.D.N.Y. Aug.

1 10, 2014).

2 Here, injunctive relief is not available to Plaintiff because the FAC fails to allege
3 that a “declaratory decree was violated or that declaratory relief was unavailable.” 42
4 U.S.C. § 1983. For purposes of § 1983, the phrase “declaratory relief” refers to the
5 litigant’s ability to appeal the judge’s order. *See La Scalia*, 2012 WL 1041445 at *7;
6 *Krupp*, 2014 WL 4165634 at *4; *LeDuc v. Tilley*, No. 3:05-CV-157, 2005 WL 1475334,
7 at *7 (D. Conn. June 22, 2005) (citing cases). Here, Plaintiff availed himself of this
8 remedy by filing an appeal in the state court action. While he may not have succeeded
9 in obtaining declaratory relief, he has not and cannot allege that such relief was
10 unavailable. *See La Scalia*, 2012 WL 1041456, at *7.

11 Finally, even if the amendment to § 1983 does not bar declaratory relief actions
12 against judges, such claims would still need to be prospective in nature. *See Justice*
13 *Network Inc. v. Craighead Cnty.*, 931 F.3d 753, 763 (8th Cir. 2019); *Krupp*, 2014 WL
14 5165634, at *4. Here, the declaratory relief Plaintiff seeks is retrospective in that he
15 requests this Court to void the judgment in *Cotton I* and order a new trial. *Krupp*, 2014
16 WL 5165634, at *4.

17 Plaintiff erroneously asserts the relief he is seeking is prospective because he is
18 requesting this Court to “preclude [Judge Wohlfeil] from continuing to preside over
19 *Cotton I* ...” (Opp’n, ECF No. 55 at 7.) However, Plaintiff’s assertions are nonsensical
20 and completely speculative and improbable given that the judgment in *Cotton I* is final.
21 Moreover, because this request “is intertwined with asking the court to declare that a
22 past constitutional or statutory violation occurred,” it is barred by the doctrine of
23 absolute judicial immunity. *Krupp*, 2014 WL 5165634, at *4; *see also La Scalia*, 2012
24 WL 1041456, at *8 (requests “for judgment declaring that [a defendant’s] past conduct
25 violated federal law are retroactive in nature and, thus, are barred by the doctrine of
26 absolute judicial immunity”) (quoting *B.D.S. v. Southold Union Free School Dist.*, Nos.
27 CV-08-1319, CV-08-1864, 2009 WL 18775942, at *20 (E.D.N.Y. June 24, 2009).)

28 Accordingly, Plaintiff’s contention that judicial immunity does not apply to this

1 action is meritless and Judge Wohlfeil's motion to dismiss should be granted, with
2 prejudice.

3 **B. The Eleventh Amendment Bars This Action Against Judge Wohlfeil.**

4 As set forth in Judge Wohlfeil's moving papers, Eleventh Amendment immunity
5 bars this suit. (MTD, ECF No. 50-1 at 7-8.) Plaintiff seeks to avoid this fatal defect on
6 the basis that he is seeking prospective injunctive relief. (Opp'n, ECF No. 55 at 7.)

7 Although the Eleventh Amendment "does not generally prohibit suits seeking only
8 prospective injunctive or declaratory relief," "a plaintiff may not use the [Eleventh
9 Amendment] to adjudicate the legality of past conduct." *Summit Medical Associates,*
10 *P.C. v. Pryor*, 180 F.3d 1326, 1337 (11th Cir. 1999). Thus, to avoid the bar provided by
11 the Eleventh Amendment, Plaintiff must allege facts and show that the relief sought in
12 the FAC concerns "ongoing and continuous violations of federal law" by Judge
13 Wohlfeil. *Id.* As set forth in the preceding section, Plaintiff has not and cannot make this
14 showing because the relief he seeks is purely retrospective. Accordingly, Eleventh
15 Amendment immunity bars this action.

16 **C. Rooker-Feldman Bars this Action Against Judge Wohlfeil.**

17 Although Plaintiff underwent a substantial effort in the Opposition to convince
18 this Court that the *Rooker-Feldman* doctrine is inapplicable, all of his arguments are
19 meritless.

20 The FAC makes clear that this action is a de facto appeal from the state court
21 judgment. As expressly stated in paragraph one of the FAC, this federal lawsuit "is a
22 collateral attack on a state court judgment issued by Judge Joel R. Wohlfeil in *Cotton I.*"
23 (See FAC, ECF No. 18 at ¶ 1.) In his "collateral attack," Plaintiff seeks to "void" and
24 "vacate" the judgment in *Cotton I.* (See FAC, ECF No. at ¶¶ 17, 146, 150, p. 18:17.)

25 The Opposition also makes clear that the instant proceedings are based on issues
26 "already litigated in *Cotton I.*" including issues of contract interpretation and judicial
27 bias. (Opp'n, ECF No. 55 at 10:4, 11:23-24.) Plaintiff acknowledges that he is seeking
28 this Court's review on the issues of legality of contract and mutual assent, which were

1 adjudicated in *Cotton I* (Opp’n, ECF No. 55 at 2:1-5), as well as issues raised in
 2 Plaintiff’s Verified Statement of Disqualification (“VSD”) (Opp’n, ECF No. 55 at 2:16-
 3 3:2.) In fact, many of the allegations in the FAC are found in the VSD.³ (See Request
 4 For Judicial Notice in Support of Darryl Cotton’s Opposition to Judge Joel R. Wohlfeil’s
 5 Motion to Dismiss First Amended Complaint and Request for Sanctions (“Plaintiff’s
 6 RJN”), ECF No. 55, Ex. 1.)

7 For example, the VSD alleged that Judge Wohlfeil was biased against him based
 8 on his rulings and decisions concerning the “Confirmation Email” and “November
 9 Document,” which are both at issue in the FAC. (See Plaintiff’s RJN, ECF No. 55, Ex. 1
 10 at 31-34; FAC, ECF No. 18 at ¶¶ 105-107, 114, 134.) Additionally, as in the FAC, the
 11 VSD alleged that “Judge Wohlfeil has stated...he does not personally believe Weinstein
 12 and Mrs. Austin are capable of acting unethically...” (Plaintiff’s RJN, ECF No. 55, Ex.
 13 1 at 32; FAC, ECF No. 18 at ¶¶ 14-16, 114.) Moreover, in the VSD, like the FAC,
 14 Plaintiff asserts Judge Wohlfeil’s “bias/fixed opinion” was actionable and required
 15 disqualification because “Judge Wohlfeil has repeatedly and inexplicably (i) avoided
 16 addressing the obvious fraudulent scheme that Plaintiff [Larry Geraci] is engaged in via
 17 his agents in seeking to acquire a marijuana related CUP that he is prohibited from
 18 owning by law; (ii) falsely stated that he has addressed the threshold issue of contract
 19 integration when in fact he has not and has systemically refused to do so for over a year;
 20 and (iii) gotten procedural and material case-dispositive facts wrong that, coupled with
 21 his comments as to the ethics of Weinstein and Mrs. Austin, make it impossible for a
 22 third-party to believe that Judge Wohlfeil can be impartial.” (Plaintiff’s RJN, ECF No.
 23 55, Ex. 1 at 33-34; FAC, ECF No. 18 at ¶¶ 14-16, 18, 24, 104-107, 114, 134.)

24 As the Ninth Circuit recognized, “the clearest case for dismissal based on the
 25 *Rooker–Feldman* doctrine occurs when ‘a federal plaintiff asserts as a legal wrong an
 26 _____”

27 ³ Plaintiff has asked this Court to take judicial notice of both his VSD filed in *Cotton I*
 28 and Judge Wohlfeil’s Order Striking Plaintiff’s Statement of Disqualification in said case.

1 allegedly erroneous decision by a state court, and seeks relief from a state court
 2 judgment based on that decision....” *Henrichs v. Valley View Development*, 474 F.3d
 3 609, 613 (9th Cir. 2007). That is exactly the case here. Thus, as relating to Judge
 4 Wohlfeil, this federal lawsuit is plainly a de facto appeal of his actions and rulings in
 5 *Cotton I*.

6 Plaintiff additionally contends that *Rooker-Feldman* does not apply because the
 7 instant action was filed before the state proceedings ended. (Opp’n, ECF No. 55 at 8.)
 8 Although Plaintiff acknowledges that this action was not brought against Judge Wohlfeil
 9 until after the judgment in *Cotton I* was entered, citing *Merritt v. County of Los Angeles*,
 10 875 F.2d 765, 768 (9th Cir. 1989), he erroneously contends that the “relationship [sic]
 11 back doctrine applies” to the *Rooker-Feldman* doctrine. (Opp’n, ECF No. 55 at 8.)

12 *Merritt* is inapposite because the *Rooker-Feldman* doctrine was not at issue in that
 13 case. Plaintiff fails to provide any authority on point supporting his novel theory that the
 14 relation back doctrine can be used to circumvent the application of the *Rooker-Feldman*
 15 doctrine. The facts are clear that Plaintiff did not name Judge Wohlfeil as a party in this
 16 action and serve him with the summons and FAC until after the conclusion of the *Cotton*
 17 *I* appeal. To propose that the *Rooker-Feldman* doctrine does not apply in this matter
 18 simply is unsupported and undermines the purpose and intent of the *Rooker-Feldman*
 19 doctrine, which is to preclude de facto appeals.

20 Plaintiff next contends, erroneously, that *Rooker-Feldman* does not apply because
 21 the judgment in *Cotton I* was obtained through extrinsic fraud. (Opp’n, ECF No. 55 at
 22 9.) “Extrinsic fraud is conduct which prevents a party from presenting his claim in
 23 court.” *Kougasian v. TMSL, Inc.* 359 F.3d 1136, 1140 (9th Cir. 2004), citing *Wood v.*
 24 *McEwen*, 644 F.2d 797, 801 (9th Cir. 1981). “Extrinsic fraud on a court is, by definition,
 25 not an error by that court. . . . It is, rather, a wrongful act committed by the party or
 26 parties who engaged in the fraud.” *Johnson v. Athenix Physicians Grp., Inc.*, No. 3:19-
 27 CV-01888, 2020 WL 133895, at *3 (S.D. Cal. Jan. 10, 2020).

28 Here, Plaintiff’s allegation of extrinsic fraud is premised on Plaintiff’s disputes

1 with Judge Wohlfeil's decisions and alleged bias, as well as certain undisclosed
 2 relationships among the *Cotton I* participants. (Opp'n, ECF No. 55 at 1-3, 6.) However,
 3 these allegations do not support an extrinsic fraud theory because they do not
 4 demonstrate that an adverse party prevented Plaintiff from presenting his claims in state
 5 court. *See Kougasian*, 359 F.3d at 1440-41; *Johnson*, 2020 WL 133895, at *3.

6 For all of the reasons stated above, the *Rooker-Feldman* bars this action against
 7 Judge Wohlfeil, and his motion to dismiss should be granted, with prejudice.

8 **D. The FAC Fails to State a Viable Claim Against Judge Wohlfeil.**

9 Judge Wohlfeil's Motion to Dismiss demonstrates that Plaintiff has not alleged a
 10 viable claim for relief because a request for punitive damages is not an independent
 11 cause of action and, further, Plaintiff has not alleged facts sufficient to state a claim for
 12 relief under § 1983. (MTD, ECF No. 50-1 at 10-11.) Plaintiff does not dispute, and
 13 therefore concedes, that the claim for punitive damages fails as a matter of law.

14 With regard to the viability of Plaintiff's § 1983 claim, and whether he has alleged
 15 a violation of a constitutional right, Plaintiff appears to take the position that he has
 16 sufficiently alleged that his constitutional rights were violated because Judge Wohlfeil
 17 was biased against him. (Opp'n, ECF No. 55 at 13.) Although not entirely clear, it
 18 seems that Plaintiff is purporting to allege a violation of his procedural due process
 19 rights.

20 "A procedural due process claim has two elements: deprivation of a
 21 constitutionally protected liberty or property interest and denial of adequate procedural
 22 protection." *Krainski v. Nevada ex rel. Bd. of Regents of Nevada Sys. of Higher Educ.*,
 23 616 F.3d 963, 970 (9th Cir. 2010) Plaintiff has not purported to identify the liberty or
 24 property interest at issue, nor has he explained how he was denied adequate procedural
 25 protections. Moreover, Plaintiff acknowledges that he filed a disqualification motion
 26 premised on Judge Wohlfeil's alleged bias (Opp'n, ECF No. 55 at 2) and, although that
 27 motion was denied, it is clear that he could have filed a writ of mandate. Cal. Civ. Proc.
 28 § 170.3(d); Opp'n, ECF No. 55 at 2; Plaintiff's RJN, ECF No. 55, Ex. 2. Because

1 Plaintiff fails to allege or explain why these procedures failed to provide an adequate
2 procedural protection, he has not alleged a viable claim under § 1983.

3 Plaintiff's reliance on *Miofsky v. Superior Court of State of Cal., In and For*
4 *Sacramento County*, 703 F.2d 332 (9th Cir. 1983) to support the proposition that he has
5 alleged a viable § 1983 claim is misplaced. *Miofsky* does not address the issue of
6 whether a plaintiff has alleged facts sufficient to state a claim under § 1983. Instead, it
7 analyzes the issue of whether the district court had jurisdiction over a § 1983 claim.
8 Specifically, *Miofsky* concerned the applicability of the *Younger*⁴ abstention doctrine,
9 which is not at issue in this matter. *Id.* at 338. Because Plaintiff has not alleged or shown
10 that a viable § 1983 claim against Judge Wohlfeil exists, the MTD should be granted
11 with prejudice.

12 **E. Plaintiff's Request for Sanctions is Frivolous.**

13 Plaintiff makes accusations in the Opposition demanding that he be awarded
14 sanctions under Rule 11 because the MTD was filed in this action. His claims that Judge
15 Wohlfeil and/or defense counsel are concealing or misrepresenting facts to this Court are
16 preposterous and completely unsupported. Not only does Plaintiff's basis for sanctions
17 lack merit, but his request is also procedurally improper. Specifically, Plaintiff failed to
18 comply with Rule 11, which mandates that a request for sanctions must be brought in a
19 separate motion. *See* Fed. R. Civ. P. 11(c)(2). Additionally, Plaintiff failed to adhere to
20 the safe harbor provision in Rule 11 which provides that a motion for sanctions may not
21 be filed until twenty-one days after it is served. *Id.* For these reasons, Plaintiff's request
22 is procedurally defective and his request for sanctions must be denied.

23 Moreover, Plaintiff does not assert any cognizable ground for bringing the Rule
24 11 motion for sanctions against Judge Wohlfeil and/or his attorneys. Pursuant to Federal
25 Rule of Civil Procedure 11, an attorney submitting a pleading thereby certifies that to the
26 best of their knowledge, information, and belief, formed after an inquiry reasonable
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28

⁴ *Younger v. Harris*, 401 U.S. 37 (1971).

1 under the circumstances, “(1) it is not being presented for any improper purpose, such as
2 to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) the
3 claims, defenses, and other legal contentions are warranted by existing law or by a
4 nonfrivolous argument for extending, modifying, or reversing existing law or for
5 establishing new law; (3) the factual contentions have evidentiary support or, if
6 specifically so identified, will likely have evidentiary support after a reasonable
7 opportunity for further investigation or discovery; and (4) the denials of factual
8 contentions are warranted on the evidence or, if specifically so identified, are reasonably
9 based on belief or a lack of information.” The purposes of Rule 11 are to “to deter
10 baseless filings in district court,” *Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384, 393
11 (1990) and to deter “dilatory or abusive pretrial tactics and streamlin[e] of litigation.”
12 *Golden Eagle Distrib. Corp. v. Burroughs Corp.*, 801 F.2d 1531, 1536 (9th Cir. 1986).

13 Plaintiff asserts that defense counsel and/or Judge Wohlfeil are subject to
14 sanctions because the MTD is a “sham pleading seeking to perpetrate a fraud on this
15 Court.” (Opp’n, ECF No. 55 at 5:14.) He claims sanctions are warranted because
16 defense counsel and Judge Wohlfeil “are evil” and have conspired to deny him access to
17 this Court “to prevent him from vindicating his due process rights to an impartial judge
18 in state court.” (*Id.* at 15:23-26; 17:1.) He asserts that sanctions are warranted because
19 the MTD fails “to inform this Court that the *Cotton I* judgment is void” and “reflects
20 [Judge Wohlfeil’s] knowledge that he is seeking to enforce an illegal contract at the
21 expense of Cotton’s Civil Rights.” (*Id.* at 15.)

22 Plaintiff’s assertions are nothing short of frivolous. As set forth in the moving
23 papers and herein, the arguments set forth in support of this motion are meritorious and
24 support a dismissal of this action. The fact that Plaintiff continues to falsely contend that
25 the *Cotton I* judgment is void and that he disagrees with the arguments made in support
26 of the motion to dismiss does not support a sanctions request. Plaintiff’s request for
27 sanctions is meritless and must be denied.

28 / / /

1 **III.**

2 **CONCLUSION**

3 As set forth above and in the MTD, this action against Judge Wohlfeil is
 4 precluded by judicial and Eleventh Amendment immunity as well as the *Rooker-*
 5 *Feldman* doctrine. In addition, the FAC fails to state a viable claim for relief against
 6 Judge Wohlfeil. Moreover, Plaintiff is not entitled to sanctions under Rule 11. Because
 7 these defects cannot be cured by way of amendment, Judge Wohlfeil respectfully
 8 requests that the Court grant the motion to dismiss, without leave to amend, and enter a
 9 judgment of dismissal, with prejudice, in his favor.

10
 11 Respectfully submitted,

12 SUSANNE C. KOSKI

13 Superior Court of California, County of San
 14 Diego

15 DATED:

16 April 7, 2021

17 By: s/ Carmela E. Duke

18 CARMELA E. DUKE

19 Attorneys for Defendant, The Honorable Joel R.
 20 Wohlfeil, Judge of the Superior Court of
 21 California, County of San Diego
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10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 DARRYL COTTON,

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17
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Case No. 18-cv-00325-TWR-DEB

PROOF OF SERVICE

[CivLR 5.4(c)]

19 I, PUI KATSIKARIS, declare that: I am over the age of eighteen years and
20 not a party to the above-referenced case; I am employed in, or am a resident of, the
21 County of San Diego, California where the mailing occurs; and my business
22 address is: 1100 Union Street, San Diego, California.

23 I further declare that I am readily familiar with the business practice for
24 collection and processing of correspondence for mailing with the United States
25 Postal Service; and that the correspondence shall be deposited with the United
26 States Postal Service this same day in the ordinary course of business.

27 On April 7, 2021, I served the following document(s): **REPLY**
28 **IN SUPPORT OF MOTION TO DISMISS FIRST AMENDED**
COMPLAINT WITH PREJUDICE BY DEFENDANT JUDGE JOEL R.
WOHLFEIL

1 by placing a true copy of each document in a separate envelope addressed to each
2 addressee, respectively, as follows:

3 **Darryl Cotton**
4 **6176 Federal Blvd.**
5 **San Diego, CA 92114**
6 **619-954-4447**

Katherine L. Parker
Assistant U.S. Attorney, Chief Civil Division
Office of the U.S. Attorney
880 Front Street, Room 6293
San Diego, CA 92101

7 I then sealed each envelope and deposited said envelope(s) in the U.S. Postal
8 Pick up box, this same day, at my business address shown above, following
9 ordinary business practices.

10 Additionally, pursuant to the Electronic Case Filing Administrative Policies
11 and Procedures Manuel of this Court, Section 2.d.2, service has been effected on
12 the parties below, whose counsel of record is a registered participant of CM/ECF,
13 via electronic service through the **CM/ECF system**:

14 **James D Crosby** Email: crosby@crosbyattorney.com
15 (Attorney for Defendants Larry Geraci and Rebecca Berry);

16 **Julia Dalzell** Email: jdalzell@pettitkohn.com
17 (Attorney for Defendants Gina Austin and Austin Legal Group);

18 **Gregory Brian Emdee** Email: gemdee@kmslegal.com
19 (Attorney for Defendant Michael Weinstein);

20 **Laura E. Stewart** Email: lstewart@wmfllp.com
21 (Attorney for Defendant Jessica McElfresh);

22 **Corinne Bertsche** Email: Corinne.Bertsche@lewisbrisbois.com
23 (Attorney for Defendant David Demian);

24 **Katherine L. Parker** Email: Katherine.parker@usdoj.gov
25 (Attorney for the United States [Defendant Judge Cynthia Bashant]).

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

28 Executed on April 7, 2021



PUI KATSIKARIS