

1 ORIGINAL

2 DECLARATION OF HON. JAMES M. IDEMAN

RECEIVED  
CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

JUN 21 1993

3 DOCKETED

FILED  
DOCKETED  
DATE 6/25/93  
INITIAL

4 I, James M. Ideman, declare as follows:

5 1. Portions of this petition will become moot because  
6 I have decided to recuse myself from this case. Plaintiff has  
7 recently begun to harass my former law clerk who assisted me  
8 on this case, even though she now lives in another city and  
9 has other legal employment. This action, in combination with  
10 other misconduct by counsel over the years has caused me to  
11 reassess my state of mind with respect to the propriety of my  
12 continuing to preside over the matter. I have concluded that  
13 I should not. I have delayed the effective date of my  
14 recusal, however, so that I could respond on behalf of my  
15 court to the allegations in the petition.

16 2. I should say at the outset that this case should  
17 soon be concluded in the District Court and thus available for  
18 appellate review. I am confident that such a review will  
19 reveal that the plaintiff's claims raised in this petition are  
20 groundless. I would strongly recommend that any definitive  
21 appellate action be deferred pending a thorough review on  
22 appeal and that years of work not be wiped out by granting  
23 petitioner's extraordinary writ.

24 3. The past 8 years have consisted mainly of a  
25 prolonged, and ultimately unsuccessful, attempt to persuade or  
26 compel the plaintiff to comply with lawful discovery. These  
27 efforts have been fiercely resisted by plaintiffs. They have

ATTEST  
CATHY A. CATTERSON  
Clerk of Court  
by: [Signature]  
Deputy Clerk

1 utilized every device that we on the District Court have ever  
2 heard of to avoid such compliance, and some that are new to  
3 us.

4 4. This noncompliance has consisted of evasions,  
5 misrepresentations, broken promises and lies, but ultimately  
6 with refusal. As part of this scheme to not comply, the  
7 plaintiffs have undertaken a massive campaign of filing every  
8 conceivable motion (and some inconceivable) to disguise the  
9 true issue in these pretrial proceedings. Apparently viewing  
10 litigation as war, plaintiffs by this tactic have had the  
11 effect of massively increasing the costs to the other parties,  
12 and, for a while, to the Court. The appointment of the  
13 Special Master 4 years ago has considerably relieved the  
14 burden to this Court. The scope of plaintiff's efforts have  
15 to be seen to be believed. (See, Exhibit "A", photo of clerk  
16 with filings, and Exhibit "B", copy of clerk's docket with 81  
17 pages and 1,737 filings.)

18 5. Yet, it is almost all puffery -- motions without  
19 merit or substance. Notwithstanding this, I have carefully  
20 monitored the Special Master's handling of these motions. I  
21 saw no need to try to improve on the Special Master's writings  
22 if I agreed with the reasons and the results. However, with  
23 respect to the major ruling that I have made during these  
24 proceedings, the dismissal of the plaintiff's claims, the  
25 following occurred:  
26

1           6.    The Special Master, after years of efforts to compel  
2 compliance with discovery, purported to order a dismissal of  
3 plaintiff's claims.  Although the action was probably long  
4 overdue, the Special Master did not have the authority to make  
5 such a dispositive order.  In reviewing his order, as I did  
6 with all of his actions, I saw what he had done and did not  
7 approve it.  I treated the Special Master's "order" as a  
8 recommendation and gave notice to the parties that they could  
9 have a hearing and invited briefs.  Only after considering  
10 fully the briefs of the parties did I give approval to the  
11 dismissal.  It is true that I adopted the language chosen by  
12 the Special Master, but that was because I fully agreed with  
13 his reasoning and saw no need to write further.

14           7.    Plaintiffs are unhappy with Judge Kolts and me for  
15 insisting that they comply fully with discovery or forfeit  
16 their case.  For this reason they wish to have our work set  
17 aside and begin anew with another judge who may, they hope,  
18 permit them to litigate their claims without complying with  
19 discovery, or, perhaps, to further punish the other parties  
20 with more years of expensive litigation.  This they should not  
21 be permitted to do, especially by means of the limited review  
22 possible on an extraordinary writ.

23           8.    I respectfully recommend that the petitioner's  
24 claims that are not mooted by my withdrawal from the case be  
25 denied without prejudice to review of same upon appeal.  
26  
27  
28

1 I declare under penalty of perjury that the foregoing is  
2 true and correct. Executed this 17th day of June, 1993 at Los  
3 Angeles, California.  
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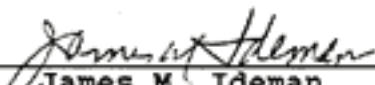
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6 \_\_\_\_\_  
7 James M. Ideman  
8 United States District Judge  
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Exhibit "A"