

Hon: Wavny Toussaint
for
Hon: Francois A. Rivera

72 for
32
AT IAS PART 32 of the Supreme Court
of the State of New York, Kings County Borough
of Brooklyn, City of New York, on the 21 day of December, 2019.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

Brett Wynkoop, Plaintiff, -against- Michael T. Yonker Defendant	Index Number: 3863-2019 Order to Show Cause MS-2 Oral Argument Requested Court Reporter Requested CPLR 2201 Stay Requested
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Upon the annexed affidavits of Brett Wynkoop dated 2019-12-22, Memorandums Of Law dated 2019-12-22 and exhibits;

Let Defendant, Michael T. Yonker, show cause before this court at the courthouse thereof located at 360 Adams Street - Part 52, Brooklyn, NY on the 30 day of Jan 2020 at 9:30 in the forenoon or as soon thereafter as counsel may be heard, why an order should not be made and entered:

1. Recusing Judge Francois Rivera from the instant matter for self described bias against Plaintiff and personal knowledge of the facts alleged in the instant matter. (Chief Administrative Judges Rules Section 100)
2. Returning the case to the clerk for random judicial assignment.
3. Other such relief as the court may deem just and proper.

KINGS COUNTY CLERK
FEE PD \$ 45.00
Lori J. ...

SUFFICIENT CAUSE BEING ALLEGED THEREON, IT IS:

Ordered that pending a hearing and determination on this motion that all other proceedings in the instant action are stayed;

let
Ordered that service of this order to show cause and the papers upon which it is made on Defendant by

✓ personal delivery pursuant to CPLR 2103(b)(1) _____ office delivery pursuant to CPLR 2103(b)(3)
_____ by electronic mail pursuant to CPLR 308(5) _____ overnight delivery pursuant to CPLR 2103(b)(6)

on or before Dec 26, 2019 shall be deemed sufficient service thereof.

Dated: Brooklyn, New York
_____, 2019

Justice Kings County Supreme Court

HON. WAVNY TOUSSAINT

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Service accepted in court

Benny W. Orl - counsel for Δ

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

Brett Wynkoop, Plaintiff, -against- Michael T. Yonker Defendant	Index Number: 3863-2019 Order to Show Cause MS-2 Oral Argument Requested Court Reporter Requested CPLR 2201 Stay Requested
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Upon the annexed affidavits of Brett Wynkoop dated 2019-12-22, Memorandums Of Law dated 2019-12-22 and exhibits;

Let Defendant, Michael T. Yonker, show cause before this court at the courthouse thereof located at 360 Adams Street – Part 52, Brooklyn, NY on the _____ day of _____ at 9:30 in the forenoon or as soon thereafter as counsel may be heard, why an order should not be made and entered:

1. Recusing Judge Francois Rivera from the instant matter for self described bias against Plaintiff and personal knowledge of the facts alleged in the instant matter. (Chief Administrative Judges Rules Section 100)
2. Returning the case to the clerk for random judicial assignment.
3. Other such relief as the court may deem just and proper.

SUFFICIENT CAUSE BEING ALLEGED THEREON, IT IS;

Ordered that pending a hearing and determination on this motion that all other proceedings in the instant action are stayed;

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_____ by electronic mail pursuant to CPLR 308(5) _____ overnight delivery pursuant to CPLR 2103(b)(6)
on or before _____, 2019 shall be deemed sufficient service thereof.

Dated: Brooklyn, New York
_____, 2019


Justice Kings County Supreme Court

wynkoop-v-yonker-ms-2-recuse-osc.odt	Court Reporter Requested Oral Argument Requested	Page 1 of 1
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

Brett Wynkoop, Plaintiff, -against- Michael T. Yonker Defendant	Index Number: 3863-2019 No Previous Request
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Plaintiff has not made any previous request for the relief sought in this motion.


Brett Wynkoop
622A President Street
Brooklyn, NY 11215
wynkoop@tekhq.com
917-642-6925

2019-12-22

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

Brett Wynkoop, Plaintiff, -against- Michael T. Yonker Defendant	Index Number: 3863-2019 Memorandum of Law in Support of a Stay MS-2 Oral Argument Requested Court Reporter Requested CPLR 2201 Stay Requested
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No Waiver of Rights

1. Plaintiff reserves all rights with respect to the rejection of Defendant's NON-Verified response to Plaintiff's summons and verified complaint in the instant matter. This motion to recuse does not waive the verification requirements of CPLR 3020 and **the common law**.

Law

NY CPLR 2201

Stay. Except where otherwise prescribed by law, the court in which an action is pending may grant a stay of proceedings in a proper case, upon such terms as may be just.

2. The black letter law above makes a stay at the total discretion of the court. Research shows there is as much case law for as against a stay so quoting case law is of very little value here.

3. A stay of the instant action will prejudice neither litigant, but decisions from a self admitted biased judge could prejudice both litigants and lead to otherwise needless appellate practice.

4. The balance of equities favors a stay pending hearing and decision on Judge Rivera's Recusal.¹

¹ Recusal is the disqualification of a judge for bias or prejudice or, in federal court and in some state courts, for the mere appearance of partiality. See, e.g., Potashnick v. Port City Constr. Co., 609 F.2d 1101 (5th Cir. 1980), cert. denied, 449

Pertinent Facts

5. Judge Rivera has himself stated on the record that he can not be an impartial jurist where Plaintiff is involved. (Wynkoop Affidavit Paragraph 6)
6. Upon information and belief Judge Rivera appears troubled by litigants who refuse to allow him to trample on their constitutional rights.
7. An allegation of bias on the part judge must be addressed before any other matter in an action where the bias has been alleged, because due process for all litigants requires an unbiased jurist. A litigant's **right to an unbiased judge** flows out of the due process clauses of the Fifth and Fourteenth Amendments of the United States Constitution. The rules of the Chief Administrative Judge codify that even the appearance of bias is reason for recusal.
8. Judge Rivera has on at least two occasions granted relief to Plaintiff's opponents on motions that were not properly before the court. To be properly before the court a motion must include an affidavit from a person with personal knowledge of the facts.
9. In one instance Judge Rivera granted a search warrant for Plaintiff's home in direct contradiction to the 4th amendment of the United States Constitution, thereby also violating the 14th amendment and the similar provision of the New York State Constitution.
10. In the other instance Judge Rivera granted a motion to try Plaintiff for Contempt of Court when the motion was not supported by an affidavit as required under CPLR 2214. This denied Plaintiff equal treatment under the law.

U.S. 820 (19580). A viable mechanism for determining the necessity of recusal "stems from the recognized need for an unimpeachable judicial system in which the public has unwavering confidence....Any question of & judge's impartiality threatens the purity of the judicial process and its institutions." Id. at 1111.

11. In both instances noted above counsel for Plaintiff informed Judge Rivera the motions were facially and jurisdictionally defective, and violated Plaintiff's Constitutional Rights. Judge Rivera granted them nonetheless.

12. Due process can only be had by litigants if the Jurist involved is disinterested and has no bias.² Judge Rivera has already stated his bias on the record, therefore his sitting on the instant case is a violation of Plaintiff's Constitutional Rights and section 100 of the Chief Administrative Judge's Rules.

13. Logic, Judicial Economy, and the Principles of Due Process all dictate that a stay must issue until a hearing and determination on the motion for Judge Rivera's recusal.

14. Under the rules of the Chief Administrative Judge it is mandatory for Judge Rivera to recuse.

15. CPLR 2201 leaves the granting of a stay up to the sound judgement of the court. As Judge Rivera is fond of pointing out Plaintiff knows his way to Monroe Place. It would be a waste of both state and litigant resources if Plaintiff had to "go to Monroe Place" to prevent Judge Rivera acting in excess of his authority.

16. Upon information and belief Defendant listed Kings County Supreme Court cases 6548-2012 and 507156-2013 as related to this action on the RJJ (Exhibit-A) to judge shop and avoid random assignment. Neither case is related to the instant action. For cases to be related they must spring from the same fact pattern. The instant matter does not spring from the same fact pattern as either case listed by Defendant's counsel on the RJJ. Defendant's bad actions took place during the pendency of 6548-2012, but the fact pattern of that case of course predates the case.

17. Defendant can not in any way be harmed by a stay of the instant action while Judge Rivera rules on the recusal motion. Both litigants could be harmed by a biased judge presiding over the case. Harm

² The **United States Supreme Court** has recognized that the lack of an impartial judge is violative of the due process clause of the 14th amendment. See, e.g., *Aetna Line Ins. Co. v. Lavoie*, 475 U.S. 813 (1986); *Ward v. Village of Monroeville*, 409 U. S. 57 (1972); *In re Murchison*, 349 U.S.133 (1955); *Tumey v. Ohio*, 273 US 510 (1927).

could come in the form of resources expended in appellate practice that might otherwise be avoided. It is also possible that Judge Rivera could rule to the detriment of a litigant because of his bias. A further danger is a man who has stated on the public record that he is biased could without even thinking about it rule to benefit the party he formerly said he was biased against in an attempt to compensate for his previous bias. Either situation leads to a court which can not meet it's duty to the public and the litigants at bar.

18. Given the foregoing a stay until the motion for recusal is decided is in the best interest of the state and all litigants.

AFFIDAVIT OF VERIFICATION


STATE OF NEW YORK:

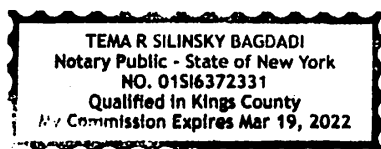
COUNTY OF KINGS :ss.

Brett Wynkoop being duly sworn deposes and says that he is the Plaintiff in this proceeding; that he has written this memorandum in support and knows the contents thereof; that the same is true to the knowledge of deponent except as to the matters therein stated to be alleged upon information and belief, and as to those matters he believes them to be true.

Sworn before me on the
23rd day of Dec, 2019.


Notary Public


Brett Wynkoop
622A President Street
Brooklyn, NY 11215
917-642-6925 - wynkoop@tekhq.com



SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

Brett Wynkoop, Plaintiff, -against- Michael T. Yonker Defendant	Index Number: 3863-2019 Memorandum of Law Motion to Recuse MS-2 Oral Argument Requested Court Reporter Requested CPLR 2201 Stay Requested
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No Waiver of Rights

1. Plaintiff reserves all rights with respect to the rejection of Defendant's NON-Verified response to Plaintiff's summons and verified complaint in the instant matter. This motion to recuse does not waive the verification requirements of CPLR 3020 and the common law.

Judicial Notice

2. Pursuant to NY CPLR 4511 the court must take judicial notice of the common law, statutes, and constitutions of the United States of America, and the several states of the Republic.

3. The court's attention is called in particular to 28 USC 455 which says in pertinent part:

28 USC 455

(a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

(b) He shall also disqualify himself in the following circumstances:

(1) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

Standards for New York State Judges

4. New York State Judges are expected to at all times comport with part 100 of the rules of the Chief Administrative Judge. Of particular note is:

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Section 100.2 A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities.

(A) A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

5. New York State Judges take an oath upon entering office to support the Constitution of the United States of America and the Constitution of the State of New York.

"I do solemnly swear (or affirm) that I will support the constitution of the United States, and the constitution of the State of New York, and that I will faithfully discharge the duties of the office of Justice of the Supreme Court, according to the best of my ability;"

6. Upon information and belief all sitting Supreme Court Justices in Kings County must be New York Licensed attorneys. All attorneys admitted to practice in the state of New York must take the oath below:

I do solemnly swear (or affirm) that I will support the constitution of the United States, and the constitution of the State of New York, and that I will faithfully discharge the duties of the office of [attorney and counselor-at-law], according to the best of my ability.

Judge Rivera By His Own Admission Is Biased

7. Judge Rivera revealed his bias against Plaintiff on the record on 27 June 2017.

"So, I guess what I'm doing is: I'm writing an order that says that I'm recusing myself..."

"I can't deal with him [Wynkoop] anymore in what I consider a fair way..."

"I'm done because I have a lot of work to do.

And, I've already wasted so much time on this case based on just a fear of my actual safety. I think this gentleman — I don't know what he's capable of. But, what I've seen

already, is enough to disturb me. "¹

8. The court is directed to take judicial notice of NYSCEF Document 1122 in Kings County Supreme Court Case 507156/2013, which is included here in total by reference.

9. In Judge Rivera's own words he can not be unbiased with respect to Plaintiff, because the Plaintiff disturbs him.

10. It would seem that Rivera is disturbed by a litigant who stands up for his civil rights and takes his battle to a higher court when Rivera attempts to run rough shod over the Constitution and a litigant's civil rights.

Judge Rivera By His Actions Demonstrates Bias & Violates the Law

11. On 23 and 27 June 2017 Rivera issued a search warrant for Plaintiff's home in direct violation of the New York State and United States Constitutions.

United States Constitution - Amendment IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

New York State Constitution – Article 1 Section 12

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

12. This is an action on Rivera's part which shows both bias and a disregard for the Constitution of the United States and the Constitution of New York. At no time prior to 27 June 2017 was there any Oath or Affirmation before the court in support of the search of Plaintiff's home, and in fact Rivera himself described the search with the very definition of a fishing expedition.

1 The court is referred to NYSCEF Document 1122 in Kings County Supreme Court Case 507156/2013 for an Uncertified copy of the transcript of 27 June 2017 hearing from which these excerpts are taken. That transcript was submitted by Yonker's former clients during 507156/2013. It is also an exhibit in Defendant's papers for MS-1 motion to dismiss.

Excerpt of 23 June 2017 Transcript

THE COURT: I know enough about this case, to know it's relevant.

MR. HILTON: Well –

THE COURT: Or, could lead to relevant evidence.

13. “[C]ould lead to relevant evidence” is the very definition of a fishing expedition especially when there is no sworn statement supporting a warrant² request. Further the record of KSC 507156/2013, where this illegal search was ordered, shows no Oath, Affidavit, Affirmation from anyone with recent personal knowledge in support of the application for a court order (warrant) to search Plaintiff’s home. (Generally Wynkoop Affidavit)

14. Granting a search of Plaintiff’s home in violation of his constitutional rights based upon the unsupported request of an opposing litigant shows bias against Plaintiff and also presents the appearance of bias to the public.

Judge Rivera Knows Too Much

15. CPLR 4511 is designed to both harmonize the laws of the State of New York with the other states and commonwealths in The Republic, as well as with Federal Laws, and to provide a path of Judicial Guidance when New York Law is lacking.

16. In the instant matter it is clear that under Federal Standards Judge Rivera would recuse for he has first hand knowledge of facts and events in KSC 6548-2012 and may be called as a material witness at trial, or for deposition. Under these circumstances it is totally inappropriate for him to preside over the instant matter.

2 Search Warrant - A court order authorizing the search of a home and/or other privacy-protected place(s), notably to seek unlawful possessions, evidence etc. as part of a judicial inquiry

17. Under the **Section 100.2 (A)** of the New York Judicial Conduct rules under the circumstances the reasonable man would perceive impropriety in Judge Rivera acting in his official capacity in the instant matter for the same reason.

18. **Section 100.3 (E)** of the New York Judicial Conduct is controlling here.

Section 100.3 (E) Disqualification.

(1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:

- (a) (i) the judge has a personal bias or prejudice concerning a party; or
- (ii) the judge has personal knowledge of disputed evidentiary facts concerning the proceeding;

19. In the instant action Judge Rivera meets both of the above tests. He was the sitting judge on KSC-6548-2012 where the actions complained of by Plaintiff took place and he has expressed in open court on the record his bias with respect to the Plaintiff. (Wynkoop Affidavit)(Exhibit B)

Judge Rivera Has Violated Judiciary Law 487

20. It is impossible for there to even be the appearance of Judge Rivera being unbiased with respect to a case that is brought to punish a lawyer for violating Judiciary Law 487. Judge Rivera on the record in open court on 27 June 2017 mislead the court and all parties to KSC 507156/2013.

21. In explaining his recusal from KSC 507156/2013 rather than just saying he felt he could no longer be impartial he took the opportunity to use his bully pulpit in a wholly inappropriate way to defame Plaintiff citing to his own opinion of Plaintiff's mental health. Upon information and belief Rivera holds a Doctor of Law degree, not a Doctor of Medicine degree.

22. FALSE STATEMENTS about Plaintiff's mental health were only part of the FALSE RECORD Rivera created. Additionally Rivera made a false record about the manner in which he was served with

an Article 78 petition to compel him to rule on a summary judgement motion in KSC 6548/2012. He claimed he was served in the driveway of his home, and that somehow service of papers caused him, an experienced lawyer, to fear for his person.³ The papers Rivera speaks of on the record on 27 June 2017 were in fact served on only the Attorney General of the State of New York. (Exhibit C)

23. This totally inappropriate tirade from the bench was made in response to Plaintiff bringing an Article 78 proceeding against Rivera in an attempt to fight for Plaintiff's civil rights. Plaintiff eventually withdrew his Article 78 proceeding as moot because Judge Rivera self corrected and then recused making Plaintiff's action moot, but also confirming the need for the Article 78 proceeding.

24. Given the foregoing an adversarial situation exists for Plaintiff has a valid cause of action under Judiciary Law 487 against Judge Rivera. **Judicial immunity does not apply to violations of the law.**

25. Plaintiff's opponents in various actions, including the instant action, have been using Rivera's PUBLIC FALSE STATEMENT to impugn Plaintiff's reputation and integrity.

26. Not only did Rivera attempt to mislead the court⁴, he appears to have succeeded as the record of KSC 507156-2013 clearly shows that the next several judges assigned after his recusal also recused themselves(Exhibit-D). These recusals stem from Plaintiff being an advocate for himself, and using the tools provided for him under the Constitution and Laws of the United States of America and the state of New York to defend his Constitutional Rights. To the reasonable man it appears that Rivera was trying a gaslight⁵ campaign directed at the judiciary with respect to Plaintiff.

3 The court is referred to NYSCEF Document 1122 in Kings County Supreme Court Case 507156/2013 for an Uncertified copy of the transcript of 27 June 2017 hearing from which these excerpts are taken. That transcript was submitted by Yonker's former clients in during KSC 507156/2013. It is also an exhibit in Defendant's papers for MS-1 motion to dismiss.

4 To be clear Judge Rivera is not the court. The court is the institution. Francois Rivera is simply the court's avatar on the bench in the courtroom.

5 The term "gaslighting" has been used colloquially since the 1960s to describe efforts to manipulate someone's perception of reality. - *Oxford English Dictionary* (3rd ed.). Oxford University Press. September 2005

Judge Rivera Does Not Want To Work That Hard

27. This desire to not work too hard was exhibited by his letting the summary judgement motions in KSC 6548/2012 languish so long that Plaintiff was compelled to bring an article 78 proceeding just to obtain a ruling. That article 78 was not born of impatience, but rather because Yonker's clients were using the proceedings as an excuse to not pay their COOP fees and as such left Wynkoop in the position where he could lose his home or lose heat, water, and electricity for 622A President Street Owners Corporation's lack funds to pay its' bills. Yonker's clients had long before moved out of the building.

Excerpt of transcript dated 2014-01-17 from KSC 6548-2012

Court: You want me to do the work. I would rather not.

28. An aversion to looking at evidence is a fatal defect in a judge and with respect to the instant action could leave both litigants cheated of a fair ruling on the facts and the law.

Judge Francois Rivera Failed His Duty

29. The rules of the Chief Administrative Judge are clear on their face and leave no room for a judge to ignore attorney violations of the law or code of professional conduct.

100.3 (D) Disciplinary responsibilities

(1) A judge who receives information indicating a substantial likelihood that another judge has committed a substantial violation of this Part shall take appropriate action.

(2) A judge who receives information indicating a substantial likelihood that a lawyer has committed a substantial violation of the Code of Professional Responsibility shall take appropriate action.

(3) Acts of a judge in the discharge of disciplinary responsibilities are part of a judge's judicial duties.

(emphasis added)

30. Judge Rivera turning a blind eye to violations of the Code of Professional Responsibility with respect to Plaintiff's opponent in, 6548/2012, Kyle Taylor Esquire, and his counsel in that litigation means that he has failed in his duty as a judge. See generally Wynkoop Affidavit.

Request for Relief

31. This motion challenges Judge Rivera's jurisdiction to hear the instant matter Plaintiff Requests a stay on all other proceedings in this matter until hearing and decision on this motion is made and entered.

32. Given the foregoing, and supported by affidavit, exhibits and pleadings submitted by Plaintiff, as well as those things judicially noticed Plaintiff requests an order of recusal and other relief as the court deems just and proper.

AFFIDAVIT OF VERIFICATION

STATE OF NEW YORK:

:SS.

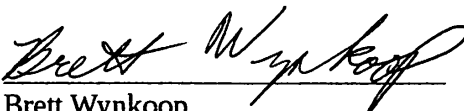
COUNTY OF KINGS:

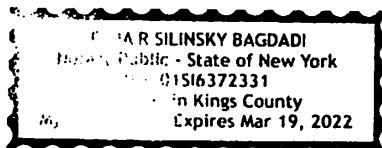
Brett Wynkoop being duly sworn deposes and says that he is the Plaintiff in this proceeding; that he has written this memorandum of law and knows the contents thereof; that the same is true to the knowledge of deponent except as to the matters therein stated to be alleged upon information and belief, and as to those matters he believes them to be true.

Sworn before me on the
22nd day of Dec, 2019.



Notary Public


Brett Wynkoop
622A President Street
Brooklyn, NY 11215
917-642-6925 - wynkoop@tekhq.com



SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

Brett Wynkoop, Plaintiff, -against- Michael T. Yonker Defendant	Index Number: 3863-2019 Affidavit of Brett Wynkoop in support of MS-2 – Motion to Recuse
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STATE OF NEW YORK:

COUNTY OF KINGS :ss.

Brett Wynkoop being duly sworn under penalty of perjury declares the contents of this affidavit to be true to affiant's own knowledge, except those things stated upon information and belief which are believed to be true based upon personal investigation.

CASE FOR JUDICIAL RECUSAL

1. I am a free man of lawful age.
2. I am an honorably discharged United States Naval Officer who took an oath to support and defend the Constitution of The United States of America from all enemies, *both foreign and domestic*, in September of 1977. That oath was renewed on 22 June 1981 when I graduated from the academy and was commissioned an ensign.
3. My oath has no expiration date.
4. All litigants in the United States and the State of New York have a right to judicial review by an unbiased judge and equal treatment under the law.
5. Affiant has received neither.
6. Subsequent to attempts of Affiant to enforce his United States Constitutional and the New York State Constitutional rights, Judge Rivera recused from 507156/2013 stating, specifically:

“I no longer feel I can be fair”

7. This alone should lead to the immediate recusal of Judge Rivera.
8. But, beyond Judge Rivera's own admission of bias and recusal in that case, Judge Rivera delivered unequal justice under the law in the same case wherein he disregarded my attorney's motion opposition papers because they did not include a sworn affidavit, *which is not required under the*

CPLR, while, granting the motion those papers addressed, also without a sworn affidavit as required by cplr 2214.

9. Judge Rivera ordered the invasion and search of affiant's home without a sworn affidavit in support of the search. This is a violation of both the United States Constitution and the New York State Constitution. This makes Judge Rivera a domestic enemy of The Constitution and additionally shows his bias.

10. For Judge Rivera's admitted presence of bias, his prior unequal treatment under the law and his allowing an illegal invasion and search of affiant's home, Judge Rivera should immediately recuse himself, in the name of due process, equal treatment under the law, the appearance of an unbiased court and judicial economy.

11. Judge Rivera has violated my rights to due process and equal protection under the law. He acted against the Constitution of the United States of America, which means he has violated his oath of office. In particular Judge Rivera acted counter to the 4th and 14th amendments to the United States Constitution.

12. The Supreme Court of The United States teaches us in **United States v Lee 106 U.S. 196 (1882)** "*[n]o man in this country is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All the officers of the government, from the highest to the lowest, are creatures of the law and are bound to obey it. It is the only supreme power in our system of government, and every man who by accepting office participates in its functions is only the more strongly bound to submit to that supremacy and to observe the limitations which it imposes upon the exercise of the authority which it gives.*"

13. On 23 June 2017 a motion by KSC-507156/2013 Defendants, to gain access to Plaintiffs' apartment for the purposes of inspecting it where there were no facts in dispute, where the Defendants had no claims under the law¹, and where no probable cause had been shown by affidavit or other means

1 Confirmed by the Second Department 27 February 2019 in the dismissal of all of claims in relation to 622A President Street unit 1.

whereby a search would be warranted, Judge Rivera responded on the record “*It's happening. I'm ordering it [the inspection]*”. Later on the record Judge Rivera says “...*[it] could lead to relevant evidence*”. The written order was issued on 27 June 2017 Exhibit E. This order is the very definition of a fishing expedition.

- 507156/2013 Defendants had no claims under the law as confirmed by the Second Department.
- 507156/2013 Defendants cited no laws that were broken in their counterclaim only making the vague allegation that the cellar spiral staircase was illegal.
- 507156/2013 Defendants made vague allegation that the cellar was illegal to occupy, again citing no law.
- Plaintiff and 507156/2013 Defendants both agreed that Plaintiff made use of the cellar as part of the unit 1 apartment and that there was a spiral stair case. QED:. No facts in controversy.
- 507156/2013 Defendants’ motion for a search warrant contained no sworn oath or affirmation in support of the search, making granting it a violation of Plaintiff’s civil rights.

14. **THERE WAS NO DISPUTE BEFORE THE COURT**, and we are taught by **Ex parte McCardle, 74 U.S. 506 (1869)** that when there is no dispute before the court, the court can do nothing but acknowledge lack of jurisdiction and dismiss. Instead of doing that Judge Rivera issued a warrant to search 622A President Street Apartment 1 with no supporting affidavit presented as required by the 4th Amendment to the United States Constitution and also required by CPLR 2214. Upon information and belief this was in the hope that Plaintiff’s opponents would find something they could use.

15. The issue of a warrant in conflict with the Constitution of the United States, and the Constitution of New York State, which includes the same wording as the 4th amendment to the United States Constitution, shows not only a bias against Plaintiff, but also that Rivera violated his oath and therefore is a domestic enemy as described in the oath of office taken by every soldier, sailor, marine and airman in the forces of the United States of America.

16. Not only was the search an unconstitutional fishing expedition, it also appears to be a manifestation of bias by Judge Rivera.

17. I was present at the first hearing in KSC 6548-2012 on 2012-12-14. At oral argument Judge Rivera asked Yonker what time he arrived for the hearing. Yonker claimed to have arrived at 10:30 and when Counsel for 622A President Street Owners Corporation pointed out Yonker's attempt to mislead the court Rivera threatened her with sanctions.

18. She and I were seated next to each other for Second Call when Yonker and his clients walked in after 11:15.

19. To the reasonable man this shows a distinct bias by Judge Rivera against any accusations of attorney's lying to the court. Judge Rivera having displayed this bias in front of a packed courtroom on motion day has set the stage for his not being qualified to sit on any case where the defendant stands accused of being a lying attorney.

20. I was present in the court room on multiple occasions where counsel attempted to tell Judge Rivera that opposing counsel had made misrepresentations to the court. I observed this not only in my cases before Rivera, but with other cases as well. Rivera's stock response was to admonish the attorney trying to point out the malfeasance, even if the attorney had documentary evidence. The instance noted above was not the only threat of sanctions I observed Rivera make when attorneys brought misconduct or downright lying to the Judge's attention.

21. A further show of bias, or gross disregard for the duties of his office, is shown by Judge Rivera's granting a motion presented to him in KSC-507156-2013 by Defendants in that action where no affidavit attesting to any facts was presented by the moving party. This motion had the effect of giving perpetual control of 622A President Street Owners Corporation to the MINORITY shareholders

and cut Plaintiff totally out of governance of the Corporation. The motion was jurisdictionally defective for lack of an affidavit per CPLR 2214, yet Rivera granted the motion to the prejudice of Plaintiff even after Plaintiff's attorney brought the defect to Rivera's attention.

22. A true copy of the relevant portion of the transcript from that day is below:

MR. HILTON: This is a technical matter. It's more you have to look to the statute

THE COURT: I'm sorry, not giving sworn allegations of fact to support the factual claims you are relying upon is technical?

MR. HILTON: Yes, Your Honor.

THE COURT: Okay, then you have your record.

23. Judge Rivera went on to direct Mr. Hilton (Plaintiff's attorney in that action) to "Monroe Place".

24. Further bias by Judge Rivera against Plaintiff was displayed on 2015-11-17 when on motion by 507156-2013 Defendants **again not properly supported by an affidavit** as required by cplr 2214 Judge Rivera caused Plaintiff to stand trial for Contempt of Court.²

25. A true excerpt from the relevant portion of the record is below:

THE COURT: You are going to object to the hearing or to the fact that I ordered a hearing?

MR. CAVALIERE: No, your Honor. I'm objecting to the papers, because it's come to our attention there is no affidavit of anybody with personal knowledge annexed to his contempt papers.

THE COURT: Isn't that water under the bridge because I already ordered a hearing?

MR. CAVALIERE: I understand, your Honor. But it's jurisdictional...

² To protect his rights Wynkoop took an appeal on this ruling, but AD2 took so long to hear the appeal that the appeal became moot and was withdrawn. Wynkoop was found not guilty of contempt at trial.

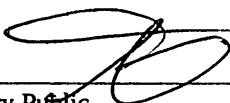
26. After that exchange Judge Rivera caused Plaintiff to stand trial for contempt of court after exhibiting that he had denied Plaintiff equal treatment under the law by allowing a facially and jurisdictionally defective motion to initiate the proceedings. Upon information and belief other litigants in New York are subject to trial only with jurisdiction.

27. I was called to the witness stand by opposing counsel during the contempt hearing and Judge Rivera threatened to hold me in contempt of court for using college level vocabulary *when he asked me questions*. In particular he made a great deal out of my use of the word edifice³.


28. Judge Rivera also threatened to hold me in contempt for answering opposing counsel's questions in an accurate manner, rather than as opposing counsel desired.

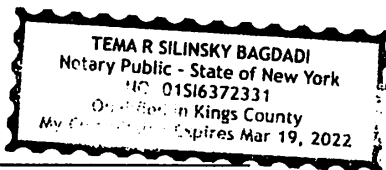
29. In summary Judge Rivera stated his bias against Plaintiff on the record in open court. He stated on the record in open court a bias against holding lying attorneys, Mr. Yonker in particular, accountable. He demonstrated that bias by failing to address in any proper way accusations of attorney malfeasance in previous cases. The records of 507156/2013 and 6548/2012 are replete with examples of bias generally revolving around violations of Plaintiff's Constitutional Rights.

Sworn before me on the
20th day of Dec, 2019.



Notary Public


Brett Wynkoop
622A President Street
Brooklyn, NY 11215
917-642-6925 - wynkoop@tekhq.com



3 edifice *n.* A building, especially one of imposing appearance or size.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

Brett Wynkoop, Plaintiff, -against- Michael T. Yonker Defendant	Index Number: 3863-2019 Affidavit of Brett Wynkoop Concerning MS-2 Exhibits
---	---

STATE OF NEW YORK:

:ss.

COUNTY OF Kings:

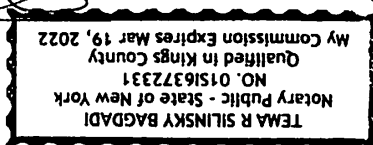
Brett Wynkoop being duly sworn under penalty of perjury declares the contents of this affidavit to be personally known to be true to him, except those things stated upon information and belief which are believed to be true based upon personal investigation.

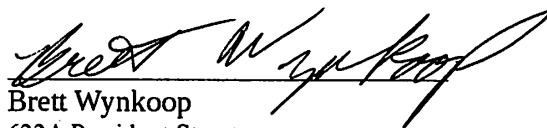
Exhibits Associated With This Motion

1. Exhibit A is a true copy of the RJ1 for this case filed with the Clerk.
2. Exhibit B is a true copy of NYSCEF document 1115 from Kings County Supreme Court Case 507156/2013, Judge Rivera's order of Recusal.
3. Exhibit C is a true copy of Order to Show Cause from Appellate Division 2 Docket Number 2013-9629 showing acceptance of service by the Office of the Attorney General on behalf of Judge Rivera.
4. Exhibit D are true copies of orders of recusal in 507156/2013 written by Judges Edwards, Jimenez Salta, Silber.
5. Exhibit E is a true copy of NYSCEF document 1114 from Kings County Supreme Court Case 507156/2013, Judge Rivera's order to search Plaintiff's home.

Sworn before me on the
22nd day of Dec, 2019.

Notary Public




Brett Wynkoop

622A President Street
Brooklyn, NY 11215
17-642-6925 - wynkoop@tekhq.com

EXHIBIT A



REQUEST FOR JUDICIAL INTERVENTION

UCS-840
(rev. 07/29/2019)

SUPREME COURT, COUNTY OF KINGS

Index No: 3863/2019

Date Index Issued: 11/13/2019

For Court Use Only:

CAPTION Enter the complete case caption. Do not use et al or et ano. If more space is needed, attach a caption rider sheet.

BRETT WYNKOOP

Plaintiff(s)/Petitioner(s)

-against-

MICHAEL T. YONKER

IAS Entry Date

Judge Assigned

RJ Filed Date

Defendant(s)/Respondent(s)

NATURE OF ACTION OR PROCEEDING Check only one box and specify where indicated.

COMMERCIAL

- ☐ Business Entity (includes corporations, partnerships, LLCs, LLPs, etc.)
- ☐ Contract
- ☐ Insurance (where insurance company is a party, except arbitration)
- ☐ UCC (includes sales and negotiable instruments)
- ☐ Other Commercial (specify): _____

NOTE: For Commercial Division assignment requests pursuant to 22 NYCRR 202.70(d), complete and attach the COMMERCIAL DIVISION RJ ADDENDUM (UCS-840C).

REAL PROPERTY Specify how many properties the application includes:

- ☐ Condemnation
- ☐ Mortgage Foreclosure (specify): ☐ Residential ☐ Commercial

Property Address: _____
NOTE: For Mortgage Foreclosure actions involving a one to four-family, owner-occupied residential property or owner-occupied condominium, complete and attach the FORECLOSURE RJ ADDENDUM (UCS-840F).

- ☐ Tax Certiorari
- ☐ Tax Foreclosure
- ☐ Other Real Property (specify): _____

OTHER MATTERS

- ☐ Certificate of Incorporation/Dissolution [see NOTE in COMMERCIAL section]
- ☐ Emergency Medical Treatment
- ☐ Habeas Corpus
- ☐ Local Court Appeal
- ☐ Mechanic's Lien
- ☐ Name Change
- ☐ Pistol Permit Revocation Hearing
- ☐ Sale or Finance of Religious/Not-for-Profit Property
- ☐ Other (specify): _____

MATRIMONIAL

- ☐ Contested

NOTE: If there are children under the age of 18, complete and attach the MATRIMONIAL RJ ADDENDUM (UCS-840M).

For Uncontested Matrimonial actions, use the Uncontested Divorce RJ (UD-13).

TORTS

- ☐ Asbestos
- ☐ Child Victims Act
- ☐ Environmental (specify): _____
- ☐ Medical, Dental or Podiatric Malpractice
- ☐ Motor Vehicle
- ☐ Products Liability (specify): _____
- ☐ Other Negligence (specify): _____
- ☐ Other Professional Malpractice (specify): _____
- ☒ Other Tort (specify): Judiciary Law 487, Fraud Upon the Court

SPECIAL PROCEEDINGS

- ☐ CPLR Article 75 (Arbitration) [see NOTE in COMMERCIAL section]
- ☐ CPLR Article 78 (Body or Officer)
- ☐ Election Law
- ☐ Extreme Risk Protection Order
- ☐ MHL Article 9.60 (Kendra's Law)
- ☐ MHL Article 10 (Sex Offender Confinement-Initial)
- ☐ MHL Article 10 (Sex Offender Confinement-Review)
- ☐ MHL Article 81 (Guardianship)
- ☐ Other Mental Hygiene (specify): _____
- ☐ Other Special Proceeding (specify): _____

STATUS OF ACTION OR PROCEEDING Answer YES or NO for every question and enter additional information where indicated.

- | | YES | NO | |
|---|----------------------------------|----------------------------------|---------------------------------|
| Has a summons and complaint or summons with notice been filed? | <input checked="" type="radio"/> | <input type="radio"/> | If yes, date filed: 11/13/2019 |
| Has a summons and complaint or summons with notice been served? | <input checked="" type="radio"/> | <input type="radio"/> | If yes, date served: 11/25/2019 |
| Is this action/proceeding being filed post-judgment? | <input type="radio"/> | <input checked="" type="radio"/> | If yes, judgment date: _____ |

NATURE OF JUDICIAL INTERVENTION Check one box only and enter additional information where indicated.

- ☐ Infant's Compromise
- ☐ Extreme Risk Protection Order Application
- ☐ Note of Issue/Certificate of Readiness
- ☐ Notice of Medical, Dental or Podiatric Malpractice
- ☒ Notice of Motion
- ☐ Notice of Petition
- ☐ Order to Show Cause
- ☐ Other Ex Parte Application
- ☐ Poor Person Application
- ☐ Request for Preliminary Conference
- ☐ Residential Mortgage Foreclosure Settlement Conference
- ☐ Writ of Habeas Corpus
- ☐ Other (specify): _____

Date Issue Joined: _____

Relief Requested: _____

Relief Requested: _____

Relief Requested: _____

Relief Requested: _____

Dismissal

Return Date: 01/10/2020

Return Date: _____

Return Date: _____

RELATED CASES				
List any related actions. For Matrimonial cases, list any related criminal or Family Court cases. If none, leave blank. If additional space is required, complete and attach the RJL ADDENDUM (UCS-840A).				
Case Title	Index/Case Number	Court	Judge (If assigned)	Relationship to instant case
Taylor, et al. v. Wynkoop, et al.	6548/2012	Kings County Supreme	Rivera	Underlying Action
Wynkoop v. 622A President Street Owners Corp., et al.	507156/2013	Kings County Supreme	Knipel	Underlying Action

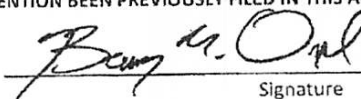
PARTIES				
For parties without an attorney, check the "Un-Rep" box and enter the party's address, phone number and email in the space provided. If additional space is required, complete and attach the RJL ADDENDUM (UCS-840A).				
Un-Rep	Parties List parties in same order as listed in the caption and indicate roles (e.g., plaintiff, defendant, 3 rd party plaintiff, etc.)	Attorneys and Unrepresented Litigants For represented parties, provide attorney's name, firm name, address, phone and email. For unrepresented parties, provide party's address, phone and email.	Issue Joined For each defendant, indicate if issue has been joined.	Insurance Carriers For each defendant, indicate insurance carrier, if applicable.
<input checked="" type="checkbox"/>	Name: Brett Wynkoop Role(s): Plaintiff	622A President Street Brooklyn, New York 11215 <wynkoop@tekhq.com> <917-642-6925>	<input type="radio"/> YES <input type="radio"/> NO	
<input type="checkbox"/>	Name: Michael T. Yonker Role(s): Defendant	Benjamin M. Oxenburgh, Esq., Ahmed Javadi, Esq., Furman Kornfeld & Brennan LLP 61 Broadway - 26th Floor - New York, New York 10006 <baxenburgh@fbkblaw.com> <212-867-4100>	<input type="radio"/> YES <input checked="" type="radio"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="radio"/> YES <input type="radio"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="radio"/> YES <input type="radio"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="radio"/> YES <input type="radio"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="radio"/> YES <input type="radio"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="radio"/> YES <input type="radio"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="radio"/> YES <input type="radio"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="radio"/> YES <input type="radio"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="radio"/> YES <input type="radio"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="radio"/> YES <input type="radio"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="radio"/> YES <input type="radio"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="radio"/> YES <input type="radio"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="radio"/> YES <input type="radio"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="radio"/> YES <input type="radio"/> NO	

I AFFIRM UNDER THE PENALTY OF PERJURY THAT, UPON INFORMATION AND BELIEF, THERE ARE NO OTHER RELATED ACTIONS OR PROCEEDINGS, EXCEPT AS NOTED ABOVE, NOR HAS A REQUEST FOR JUDICIAL INTERVENTION BEEN PREVIOUSLY FILED IN THIS ACTION OR PROCEEDING.

Dated: 12/13/2019

4809489

Attorney Registration Number



Signature

Benjamin M. Oxenburgh

Print Name

EXHIBIT B

At an I.A.S. Trial Term, Part 501 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, located at Civic Center, Borough of Brooklyn, City and State of New York, on the 27 day of June 2017

P R E S E N T :

Hon. Rivera
Justice

Brett Wynn Lopez and Katherine Kerke
Plaintiff(s)

Cal. No. 507156-2013
Index No.

- against -

622A Presidents Street Owner Corp.
Kyle Taylor, Hilary Taylor Taylor and
Rayean Subramanian
Defendant(s)

The following papers numbered 1 to read on this motion

Papers Numbered

Notice of Motion - Order to Show Cause

and Affidavits (Affirmations) Annexed

Answering Affidavit (Affirmation)

Reply Affidavit (Affirmation)

Affidavit (Affirmation)

Pleadings - Exhibits

Stipulations - Minutes

Filed Papers

The court recuses itself from this case. Consequently the portion of Motion Sequence number thirty made by the Taylor Defendants and by Rayean Subramanian pertaining to the compulsion of documentary discovery must be heard by another court. The motion to strike the entire of issue is also subject to instant Recusal Order.

For Clerks use only

MG

MD

Motion Seq. #

30 + 31

Also sequence number thirty one is part of the Recusal Order

ENTER

J.S.C.

EFV-rev 11-04

HON FRANCIS A. RIVERA
J.S.C.

EXHIBIT C

FEE PAID
#1 SM

**SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION: SECOND JUDICIAL DEPARTMENT**

In the Matter of the Application of
**BRETT WYNKOOP, KATHLEEN KESKE, JAMES
BORLAND,**

A.D. # 2013-9629

Petitioners

For Judgment in the Nature of Mandamus
Under Article 78 of the Civil Practice Laws and Rules

**ORDER TO
SHOW CAUSE**

-against-

The Honorable **FRANCOIS RIVERA**,
Supreme Court Justice of the State of New York, County of
Kings;
KYLE TAYLOR and RAJEEV SUBRAMANYAM, named as
Plaintiffs in the Kings County Civil Index No. 6548/2012,
622A President Street Owners Corp, named as
nominal Defendant
Respondents.

Upon the annexed affirmation of ANTONY HILTON, ESQ., dated October 21, 2013, the
annexed Verified Petition and Memorandum of Law, and the annexed Affidavits of the board
directors of 622A President Street Owners Corp., Brett Wynkoop dated October 21, 2013, and all
THE ANNEXED EXHIBITS
~~of the proceedings under Civil Index No. 6548/2012, Kings County;~~

LET the respondents, HON. FRANCOIS RIVERA, Justice of the Supreme Court of the
State of New York, County of Kings, and KYLE TAYLOR and RAJEEV SUBRAMANYAM,
named Plaintiffs under the Civil Index No. 6548/2012, **SHOW CAUSE BEFORE THIS**

COURT at the courthouse thereof, located at 45 Monroe Place, Brooklyn, NY, on the 15 day of
NOVEMBER
~~October~~, 2013, at 9:30 am o'clock in the forenoon, or as soon thereafter as counsel may be heard,
why an order should not be made and entered:

1. Directing, pursuant to CPLR Article 78, the lower court to enter an order of dismissal of the derivative action brought by the Respondent-Plaintiffs pursuant to CPLR Article 78; and
2. Upon directing the lower court to enter an order of dismissal of the derivative action, ordering the Clerk of the Court, Kings County, to immediately release moneys held by it under the Civil Index No. 6548/2012; and

3. In the alternative to the foregoing, pursuant to CPLR §5701(c), granting Petitioners leave to appeal the oral determination of the lower court, made orally and recorded in the attached transcripts of March 22, 2013, and July 16, 2013, which said order was to deny dismissal, pursuant to CPLR §3211, of the complaint under Civil Index Number 6548/2012; and
4. Upon granting leave to appeal, ordering the following temporary relief:
 - a. staying the lower court proceedings pending appeal; and
 - b. ordering that the Clerk of the Court, Kings County, immediately release to the Petitioner, 622A President Street Owners Corp., all moneys held by it under the Civil Index Number 6548/2012; and
 - c. ordering Respondents named as Plaintiffs under the Civil Index No. 6548/2012, to pay their monthly payment obligations to the Petitioner, 622A President Street Owners Corp., as obligated under their proprietary lease agreement.and
5. In the alternative to the foregoing, pursuant to CPLR Article 78, directing that the lower court execute the attached transcripts of March 22, 2013, and July 16, 2013, so ordering oral determinations recorded therein, so that Petitioner may pursue their constitutional right to appeal; and
6. Upon ordering the lower court, pursuant to CPLR Article 78, to execute the attached transcripts of March 22, 2013, and July 16, 2013, granting the same temporary relief sought under application 4(a-c), herein above, pending an appeal of the lower court's denial of the motion to dismiss pursuant to CPLR §3211; and
7. For such other further relief as this Court deems just and proper.

SUFFICIENT CAUSE BEING ALLEGED THEREON, IT IS

ORDERED that pending the hearing and determination of this petition pursuant to CPLR Article 78, all proceedings and orders before the Kings County Supreme Court under Index No. 6548/2012 are stayed; and it is further,


ORDERED that Kyle Taylor and Rajeev Subramanyam are to immediately issue to the attorney for 622A President Street Owners Corp. (the "corporation") funds either in cash or in the form of a negotiable check instrument made out to the above named corporation in the amount of \$6,000.00, sufficient for the corporation to pay its current, pending and overdue, liabilities during the pendency of this petition; and it is further,

ORDERED that service of a copy of this Order to Show Cause, and the papers upon which it is made, upon the Office of the Attorney General, located at 120 Broadway, New York, ~~UPON 622A PRESIDENT STREET OWNERS CORP.~~, New York 10271, and upon Mendel Bhandari, 11 Broadway, Ste. 615, New York, NY 10004, attorney for the Respondent-Plaintiffs in the civil matter under Index No. 6549/2012, ~~by regular~~ ~~PURSUANT TO CPLR 2103(6)(1), (5)(7) OR (5)(b)~~ ~~mail, to be received by Respondents~~ by no later than NOV. 1, 2013, be deemed sufficient service thereof, and sufficient service of the attached petition pursuant to CPLR Article 78; and it is further

~~**ORDERED** that service of responsive papers shall be made by all Respondents upon Petitioners by regular mail, to be received by Petitioners by no later than _____, 2013.~~

Dated:

DATED: BASCOM, NY
OCTOBER 22, 2013


Associate Justice of the Appellate Division of
the Supreme Court of the State of New York
for the Second Judicial Department

TO: The New York State Attorney General's Office
Attn: Robert Kraft
120 Broadway, 24th Floor
New York, NY 10271

Hon. Plummer E. Lott
Associate Justice
Appellate Division 2nd Dept.

Rishi Bhandari
Mendel Bhandari
11 Broadway, Ste. 615
New York, NY 10004

November 15, 2013
Response service

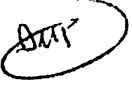
WAIVED SEPARATE
SERVICE
UPON
JUSTICE
RIVERA
and
ASSISTANT ATTORNEY GENERAL
ROBERT KRAFT ACKNOWLEDGES
THAT SERVICE UPON
THE OFFICE OF THE ATTORNEY
GENERAL IS SUFFICIENT
SERVICE UPON JUSTICE RIVERA.


EXHIBIT D

FILED: KINGS COUNTY CLERK 09/26/2017

NYSCEF DOC. NO. 1173

INDEX NO. 507156/2013

RECEIVED NYSCEF: 09/27/2017

At IAS Part ⁸⁰ of the Supreme Court
of the State of New York, Kings County, on
the 22nd day of September 2017

PRESENT: Hon. Genine Edwards, JSC

Brett Wynkoop & Kathleen Keske

RECUSAL ORDER

Plaintiff(s)

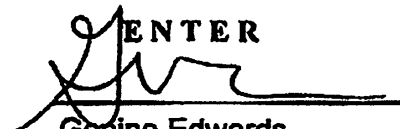
Index No. 507156 /2013

- against -

**622A President Street Owners Corp., Kyle Taylor,
Hilary Taylor and Rajeev Subramanyam**

Defendant(s)

This Court recuses itself. The case is to be "overridden" to another Non-City Part, at random,
pursuant to Supreme Court administrative procedures.


Genine Edwards
JSC

2017 SEP 26 AM 8:27

09/26/17 - TTS

At an I.A.S. Trial Term, Part ⁸⁸ of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, located at Civic Center, Borough of Brooklyn, City and State of New York, on the 9 day of Apr / 20 18

P R E S E N T

Hon. JIMENEZ SALTA
Justice

Brett Wynkoop &
Kathleen Keoke
- against -

Cal. No.

Index No.

507156/13

622 A President Street Owners Corp
Kyle Tyler, Haley Taylor, + Rajen Subramanyam
Defendant(s)

The following papers numbered 1 to read on this motion

Papers Numbered

Notice of Motion - Order to Show Cause

and Affidavits (Affirmations) Annexed

Answering Affidavit (Affirmation)

Reply Affidavit (Affirmation)

Affidavit (Affirmation)

Pleadings - Exhibits

Stipulations - Minutes

Filed Papers

The Court recuses itself
from this matter.

For Clerks use only

MG

MD

Motion Seq. #

EJV-rev 11-04

E N - T E R

J.S.C.

HON. DAWN JIMENEZ SALTA

2018 APR 11 AM 8:06

NYSCEF FILED

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS : PART 9**

BRETT WYNKOOP, ET AL,

Plaintiffs,

-against-

622A PRESIDENT STREET OWNERS CORP., ET AL,

Defendants.

Index No. 507156/13

RECUSAL ORDER

HON. DEBRA SILBER, J.S.C.:

The court hereby recuses itself from this action and respectfully refers all pending motions as well as the action to the Administrative Judge, Hon. Lawrence Knipel, to be reassigned to another IAS Judge.

Dated: July 20, 2018

ENTER:



Hon. Debra Silber, J.S.C.

**Hon. Debra Silber
Justice Supreme Court**

EXHIBIT E

At an I.A.S. Trial Term, Part 2 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, located at Civic Center, Borough of Brooklyn, City and State of New York, on the 27 day of June 20 17

P R E S E N T :

Hon. FRANCOIS RIVERA
Justice

BRETT WYNKOOP, KATHLEEN KESKE

Plaintiff(s)

Cal. No.

Index No. 507156/2013

- against -

622A PRESIDENT STREET OWNERS CORP.,
KYLE TAYLOR, HILARY TAYLOR and
RAJEEV SUBRAMANYAM

Defendant(s)

The following papers numbered 1 to read on this motion

Papers Numbered

Notice of Motion - Order to Show Cause

and Affidavits (Affirmations) Annexed

Answering Affidavit (Affirmation)

Reply Affidavit (Affirmation)

Affidavit (Affirmation)

Pleadings - Exhibits

Stipulations - Minutes

Filed Papers

- ① The common law notice of liens served on April 21, 2017 need not be responded to, as the papers are unrelated to this case, as conceded by counsel for Plaintiffs.
- ② The deposition of Brett Wynkoop ~~shall take place on~~ August 17, 2017 ~~at the office of Mark Blumberg LLP~~ Plaintiffs' cellar ~~shall take place on~~ August 12, 2017. Notice of Inspection shall be subject to the requirements set forth in the order of 3/17/17.

For Clerks use only

MG EXT

MD

Motion Seq. #

029

ENTER

J.S.C.

HON. FRANCOIS A. RIVERA
JSC

- 7 AM 8:27

EJV-rev 11-04

- ④ The parties shall not engage in discovery or motion practice except through counsel.

- ⑤ ~~Notice of Issue is adjourned to~~