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ENDORSED  
FILED  
ALAMEDA COUNTY

MAY 30 2014

CLERK OF THE SUPERIOR COURT  
Agela Yamsuan  
Deputy

5 Attorneys for Defendant/Cross-Complainant PACIFICA  
FOUNDATION RADIO

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF ALAMEDA

12 PACIFICA DIRECTORS FOR GOOD  
13 GOVERNANCE,  
14 Plaintiff,  
15 vs.  
16 PACIFICA FOUNDATION RADIO, *et*  
*al.*,  
17 Defendants.

CASE NO. HG14720131  
DECLARATION OF DAN SIEGEL IN  
OPPOSITION TO MOTION TO DISQUALIFY  
COUNSEL  
Date: June 12, 2014  
Time: 9:00 a.m.  
Dept.: 15  
Judge: Honorable Ioana Petrou

18 PACIFICA FOUNDATION RADIO,  
19 Cross-Complainant,  
20 vs.  
21 SUMMER REESE and ROES 1 TO 100,  
22 Cross-Defendants.  
23

25 I, DAN SIEGEL, declare as follows:

- 26 1. I am lead counsel for defendant PACIFICA FOUNDATION RADIO in this case.  
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1           2. I am a 1970 graduate of Boalt Hall School of Law, University of California,  
2 Berkeley. Prior to attending law school I graduated *magna cum laude* from Hamilton  
3 College in Clinton, New York.

4           3. I am admitted to practice before the United States Supreme Court, the California  
5 Supreme Court, the United States Court of Appeals for the Ninth Circuit, and all federal  
6 district courts in California. I have been specially admitted to appear before federal district  
7 courts in the states of Alaska, Arizona, Nevada, Utah, and Washington and before state  
8 courts in Alaska, Arizona, New York, and Rhode Island.

9           4. After graduating from law school, I worked for the Legal Aid Society of Alameda  
10 County as a Reginald Heber Smith Community Law Fellow. I then worked with the Military  
11 Law Office representing American military personnel in courts martial throughout South  
12 and East Asia. I have worked in private practice with the firm of Siegel & Yee, and its  
13 predecessors, from 1974 through 1987 and 1993 through the present. From 1987 through  
14 1989 I served as Chief of Complex Litigation for the San Francisco City Attorney and from  
15 1990 through 1992 served as General Counsel to the Oakland Unified School District. I was  
16 the General Counsel of the Pacifica Foundation, which owns and operates five radio stations  
17 across the United States, from April 2006 through January 2009.

18           5. My experience as an attorney includes over 125 jury trials and a similar number of  
19 court trials and arbitration hearings. I have also argued approximately 40 cases in state and  
20 federal appellate courts and sat as a judicial arbitrator in Alameda County for many years.  
21 My practice emphasizes employment and labor matters and includes commercial, civil  
22 rights, and personal injury litigation.

23           6. I have been named a California "Super Lawyer" since 2009. I am listed as a "Top  
24 Lawyer in California" by The Legal Network and am a member of the "Million Dollar  
25  
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1 Advocates Forum." I am rated as "V" in ethics, the highest possible rating, by Martindale-  
2 Hubbell. I have never been disciplined in any manner by the State Bar of California.

3 7. I have never represented Pacifica Directors for Good Governance (PDGG), nor have  
4 I represented any of its members as individuals. I believe that during the time that I served  
5 as the Pacifica Foundation's General Counsel, from April 2006 through January 2009,  
6 Carolyn Birden was the only current PDGG member who then served on Pacifica's Board.  
7 However, she was never named as an individual in any of the cases in which I represented  
8 the Foundation.  
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10 8. I do not believe that any of the grievances made against me by PDGG in support of  
11 its motion to disqualify my firm even remotely qualifies as grounds for disqualification  
12 under Rule 3-310(E) of the California Rules of Professional Conduct. However, out of an  
13 abundance of caution and because PDGG is publicizing its motion in an apparent effort to  
14 embarrass the Foundation and me, I will briefly respond to its claims.  
15

16 9. Contrary to PDGG's claims, neither I nor Siegel & Yee have ever sought to enrich  
17 ourselves at Pacifica's expense. We always charge Pacifica at our lowest hourly rates  
18 (currently \$250), which are less than half the hourly rates I typically charge in litigation of  
19 this type. When I resigned as Pacifica's General Counsel in January 2009, the Foundation  
20 owed my firm \$140,000. We have forgiven that debt.  
21

22 10. It would be extraordinary if the Pacifica Foundation sought PDGG's advice in  
23 choosing counsel to represent it in PDGG's lawsuit. In my experience as General Counsel for  
24 the Pacifica Foundation and for the Oakland Unified School District, my client never  
25 consulted with adverse counsel in choosing defense counsel, nor have members of the  
26 Foundation's Board who sued Pacifica been allowed to participate in meetings in which their  
27 litigation against the Foundation has been discussed.

1 11. Jose Luis Fuentes is an employee of Siegel & Yee and holds no equity interest in  
2 the firm. His compensation is not in any way dependent on the fees that Siegel & Yee earns  
3 for representing the Foundation.

4 12. In 1999 my firm filed a lawsuit against the Pacifica Foundation to challenge  
5 procedures that allowed the Pacifica National Board to select its own members. As a result  
6 of the settlement of that case and of two others (one filed on behalf of California's Attorney  
7 General) raising similar issues, Pacifica's bylaws and governance structure were  
8 substantially revised. *Adelson v. Pacifica Foundation*, Alameda County Superior Court No.  
9 814461-0. My firm represented Lydia Brazon, our current client as a defendant in the  
10 instant case, as a plaintiff in the *Adelson* case. None of the other individual parties in the  
11 instant case were parties in the *Adelson* case.  
12

13 13. During the time that I served as Pacifica's General Counsel (April 2006 to January  
14 2009) I was twice appointed by the Pacifica National Board to serve as its Interim Executive  
15 Director and did so without pay for a total period of less than six months.  
16

17 14. In 2007 Pacifica conducted elections for its five local station boards. Pacifica's  
18 elections are normally chaotic and extremely partisan. In 2007 they were worse than usual.  
19 At KPFA some candidates' criticisms of the station manager, a woman from Africa, verged  
20 on overt racism. As Interim Executive Director I posted a letter to all participants urging  
21 that candidates and their supporters avoid personal attacks and focus on the issues. I did  
22 not mention anyone by name and did not urge a vote for or against any candidate. Later, I  
23 was sued for defamation in part as a result of my statement. *Borgstrom v. Siegel*, Alameda  
24 County Superior Court No. 10524638. That case was dismissed on an anti-SLAPP  
25 motion, and my firm was awarded \$9645 in fees. The plaintiffs' appeal was denied, and my  
26 firm recovered another \$10,000 in fees. As a result of a verbal altercation at the meeting of  
27

1 the KPFA Local Station Board at which I was served with the summons and complaint,  
2 Borgstrom's counsel, Richard Phelps, sought a restraining order against me. This Court  
3 denied his application.

4           15. Pacifica's election supervisor for the 2007 election was Casey Peters, who was not  
5 competent to carry out his duties. As a result, the elections were not completed on schedule  
6 or within budget. Lawsuits challenging the elections procedures were filed against Pacifica  
7 in Los Angeles and New York, and another suit was threatened in Berkeley. I finally decided  
8 to terminate Mr. Peters' assignment and did so within my authority as Interim Executive  
9 Director. Mr. Peters refused to return Pacifica's laptop computer with the computer  
10 programs necessary to process the election ballots. While doing some work in Los Angeles, I  
11 drove to Mr. Peters' home in Long Beach in an effort to persuade him to return the  
12 computer. I knocked on the open door to his apartment and spoke with his wife, who  
13 demanded that I leave. I did so. I waited in my automobile for Mr. Peters to return, but he  
14 did not. I was not intoxicated, nor did I shine my automobile headlights into his apartment.  
15 Mr. Peters was not present during the events he purports to describe in his declaration.  
16

17           16. In 2010, Daniel Borgstrom filed suit against Margy Wilkinson, Conn Hallinan,  
18 Mal Burnstein, and me, claiming that as members of the KPFA Local Station Board we  
19 breached our duty to the Foundation by independently raising funds so that a popular  
20 program could be returned to the air. *Borgstrom v. Wilkinson*, Alameda County Superior  
21 Court No, RG11555942. The trial court denied our anti-SLAPP motion, finding that plaintiffs  
22 had submitted sufficient evidence to demonstrate a probability that they would prevail on  
23 their claim. The Court of Appeal affirmed. We then filed a second anti-SLAPP motion,  
24 backed by additional evidence. The plaintiffs then dismissed their suit, and the Court  
25 awarded us fees of slightly more than \$12,000 as prevailing parties.  
26  
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1 17. Molly Paige filed suit for sexual harassment against Pacifica and Eva Georgia, the  
2 station manager of KPFK in Los Angeles. As General Counsel I represented Pacifica and Ms.  
3 Georgia in that lawsuit. I did not represent Ms. Georgia as her personal attorney. After I  
4 became Interim Executive Director, Ms. Paige filed an amended complaint, naming me as a  
5 defendant. As a result, I withdrew from representing the defendants and, in consultation  
6 with Pacifica's insurance carrier, selected new counsel. While serving as counsel in the *Paige*  
7 case I deposed many witnesses, including Ali Lexa. I do not believe that I intimidated or  
8 threatened Mr. Lexa, who remained a Pacifica employee long after the case was concluded.  
9

10 18. In 2011 I was elected to the Pacifica National Board. The Board majority ruled  
11 that I was ineligible to serve on the grounds that I occupied a "political office" by virtue of  
12 my role as an unpaid legal advisor to Oakland Mayor Jean Quan. Their argument was  
13 similar to the one PDGG has raised in this case regarding PNB member Tony Norman. This  
14 Court ordered that I be seated on the Board. *Burnstein v. Pacifica*, Alameda County  
15 Superior Court No. RG11562056. Margy Wilkinson, the current chair of the PNB, was a  
16 plaintiff in that case. The PNB refused to comply with the Court's order until it issued an  
17 order for Summer Reese and Carolyn Birden to show cause why they should not be held in  
18 contempt.  
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20 19. While serving on Pacifica's National Board in November 2013 I offered to  
21 investigate, without charge, the sexual harassment charge made by a National Office  
22 employee against CFO Raul Salvador. The gist of the complaint was that the employee felt  
23 uncomfortable by the way in which Mr. Salvador looked at her. I interviewed Mr. Salvador  
24 and spoke briefly to the complainant. She then indicated that she did not believe that I was  
25 impartial in the matter, so I withdrew.  
26  
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1           20. In none of the litigation described above, nor in the course of representing the  
2 Pacifica Foundation in many other lawsuits, have I obtained confidential information  
3 regarding any of the plaintiffs in this case or Summer Reese. To the extent that I have been  
4 involved in litigation with any of the plaintiffs herein or Ms. Reese, they have always been  
5 adverse parties.  
6

7           I declare under penalty of perjury that the foregoing is true and correct. Executed on  
8 May 29, 2014, at Oakland, California.

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11 Dan Siegel  
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