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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT

THE PEOPLE OF THE STATE OF  
CALIFORNIA,

Plaintiff,

vs.

PAUL TURLEY, MARIA DELCARMEN  
TURLEY, PETER W NELSON, KELLY SOO  
PARK, and TATIANA ARNOLD,

Defendants.

Case No. BA 455469

**DEFENDANT PETER NELSON'S  
VERIFIED STATEMENT OBJECTING  
TO HEARING AND TRIAL BEFORE THE  
HON. LARRY P. FIDLER AND  
REQUESTING DISQUALIFICATION  
PURSUANT TO CCP §§ 170.1 and 170.3(c)**

1 Pursuant to California Code of Civil Procedure §§ 170.1 and 170.3(c),  
2 Defendant Peter Nelson hereby submits his verified statement objecting to further  
3 proceedings before the Hon. Larry P. Fidler and seeking his disqualification in the  
4 instant matter(s) on the grounds set forth below.

## 5 I. INTRODUCTION

6 The investigation and prosecution of this case have dragged on for nearly 10  
7 years. The delay is due in no small part to the People's continual efforts to rely on  
8 salacious and disproven murder allegations against Defendant Kelly Park and  
9 nondefendant Dr. Munir Uwaydah in order to avoid having a weak case – that charges  
10 only nonviolent financial offenses – be heard and disposed of on the merits. Those  
11 efforts have apparently been actively supported by the trial judge, the Hon. Larry P.  
12 Fidler, who, as Defendants have repeatedly observed, has evidently engaged in  
13 numerous ex parte and in camera meetings with the prosecution and its witnesses.  
14 Defendants have strong reason to suspect that those meetings resulted in the disclosure  
15 of privileged, confidential, and/or prejudicial information and significantly influenced  
16 the judge's conduct of these proceedings, delaying an evidentiary hearing and any  
17 ruling on a motion to dismiss based on prosecutorial misconduct that has now been  
18 pending since February of 2018, improperly inserting himself into the defendants'  
19 attorney-client relationships by threatening disqualification of all defense counsel  
20 based on an imaginary conflict supposedly created by the ordinary and statutorily  
21 required payment of Defendants' attorneys' fees by their employer, and now, most  
22 recently, allowing the People to interrupt the defendants' presentation of evidence on  
23 their motion with testimony from cooperators with the aim of establishing an  
24 imaginary and irrelevant crime-fraud exception as if it could somehow excuse the  
25 People's far-ranging misconduct. These acts and others, as further set forth below, are  
26 such that "a reasonable member of the public at large, aware of all the facts, would  
27 fairly entertain doubts concerning the judge's impartiality," warranting Judge Fidler's  
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1 disqualification under Cal. Code Civ. Proc. §§ 170.1. (*Briggs v. Superior Court* (2001)  
2 87 Cal. App. 4th 312, 319 [citing *Flier v. Superior Court* (1994) 23 Cal. App. 4th 165,  
3 170].)

4 To remedy this appearance of bias and ensure fairness in the proceedings,  
5 Defendant Nelson requests that this Court review the record and order the recusal of  
6 Judge Fidler. Defendant Nelson also respectfully requests that the judge assigned to  
7 consider Judge Fidler's disqualification, review the transcripts of all the in camera  
8 hearings between the prosecution and Judge Fidler to determine whether the People  
9 have provided the judge with prejudicial information necessitating his recusal.  
10 Defendant Nelson further requests that, upon disqualification, the case be reassigned to  
11 Judge Kennedy, who is familiar with the factual allegations and the parties, as well as  
12 the history behind this case, and was improperly removed by the People in an exercise  
13 of blatant forum shopping after she threatened to dismiss their case based on  
14 shoddiness and misconduct.

## 15 **II. RELEVANT FACTUAL AND PROCEDURAL HISTORY**

16 The People brought their original indictment in 2015, charging offenses that had  
17 allegedly occurred several years earlier. The case was a mess from the start. The  
18 originally assigned judge, the Hon. Kathleen Kennedy, said so herself when she  
19 dismissed nearly 100 of the counts because the indictment was "incredibly sloppy, ill-  
20 conceived, inept, [and] incompetent." (Feb. 1, 2018 Joint Mot. Dismiss at 10.) In  
21 April 2017, on the eve of a hearing wherein the People would have had to explain a  
22 claimed privilege invasion, they instead moved to dismiss the indictments "in the  
23 interests of justice" and to have them immediately refiled in Department 30. (*Id.* at  
24 16.) Head Deputy DA Nantroup indicated that the People were "within days, if not  
25 hours" of losing some of their counts due to statute of limitations issues, which, upon  
26 further inspection, appears to have been a flagrant misstatement to the Court. (*Id.* at  
27 16-17.) The People's motion was granted over defense objection but reassigned to  
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1 Judge Kennedy. (*Ibid.*) The People, obviously hoping to avoid having to answer for  
2 their alleged privilege invasion, immediately had Judge Kennedy disqualified under  
3 Code. Civ. Proc. § 170.6 and the case was reassigned to the Hon. Larry P. Fidler. (*Id.*  
4 at 17-18.)

5 Ever since, Defendants have been trying to have the evidentiary hearing to which  
6 they are entitled and have been met with one roadblock after another from the People  
7 and, troublingly, the judge himself. (*Id.* at 18-23.) Defendants' Joint Motion to  
8 Dismiss based on prosecutorial misconduct, filed in February 2018, is still outstanding  
9 despite the passage of almost two years.

10 In the meantime, Judge Fidler has apparently abandoned his impartiality in favor  
11 of attempting to shore up the People's factually and legally defective case and prevent  
12 them from having to answer to the charges of misconduct. Sometime in the late  
13 summer of 2018, Defendant Paul Turley decided he wanted to plead guilty and  
14 cooperate with the prosecution; the Court apparently found that his original counsel,  
15 Benjamin Gluck, had a conflict based on his prior representation and ongoing  
16 relationship with Dr. Uwaydah and his entities and therefore secretly appointed him a  
17 new lawyer, Louis Sepe, without notifying other defense counsel and without Gluck  
18 being removed from the case.<sup>1</sup> (Turley Proffer at 9-10.) The prosecution was  
19 evidently present at the September 2018 in camera meeting between the Court and  
20 Turley, as were Gluck and Sepe, but no other defense counsel were present or aware of  
21 what was happening behind closed doors and therefore were unable to guard against  
22 the disclosure of privileged joint defense information. (*Id.* at 10.) Worse,  
23 notwithstanding Gluck's conflict, he was permitted to continue to lead the defense

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26 <sup>1</sup> Judge Fidler had previously accepted a conflict waiver signed by Turley and Dr. Uwaydah; thus it is  
27 unclear why he would not simply request to review those of the other defendants, when he became  
28 concerned about the possibility of a conflict.

1 team at evidentiary hearings on September 20, 26, and 27, and October 9 and 10, 2018,  
2 with the remaining defendants and counsel completely in the dark as to Gluck's  
3 conflict and the nature of the in camera meeting – an egregious violation of the Joint  
4 Defense Agreement of which both the prosecution and Judge Fidler were aware.

5 The Turley proffer itself illustrates the bias, deception, and misconduct that have  
6 infected this case from the very beginning and demonstrates the prosecution's  
7 vindictive motivation behind it. In the transcript, the prosecution boldly and falsely  
8 states that "the evidence is pretty clear that Miss [Kelly] Park murdered Julianna  
9 Redding." (Turley Proffer at 112.) Ms. Park was not only acquitted of that murder,  
10 but the Ninth Circuit ruled in her favor on a civil-rights suit against the Santa Monica  
11 Police Department's lead investigator based on police misconduct (the case was later  
12 settled). More to the point, absolutely nothing about the murder or its prosecution is  
13 relevant to *this* case, which, as discussed above, charges only nonviolent financial  
14 crimes that are alleged to have occurred years later. Nevertheless, the prosecution  
15 continues to attempt to exact payback for the outcome of the murder trial by injecting  
16 unfounded and defamatory allegations against Ms. Park and nondefendant Dr.  
17 Uwaydah (painting them as violent criminals) into these proceedings, including at  
18 other places in the Turley proffer (*see, e.g., id.* at 30-31 (asking if Turley had given his  
19 son's phone numbers to Dr. Uwaydah, putting words in Turley's mouth that Turley's  
20 safety might be at risk due to his decision to cooperate, and repeatedly indicating that  
21 the prosecution had secretly told Judge Fidler about its imaginary safety issue) 112  
22 (accusing Ms. Park of murder and insinuating she had committed other violent crimes  
23 on Dr. Uwaydah's behalf by "performing" "odd jobs" for him as a "fixer," including  
24 "physically intimidate[ing] people" ), 130 (again accusing Ms. Park of murder and also  
25 suggesting existence of improper or criminal relationship between Dr. Uwaydah, Ms.  
26 Park, and Gluck).) Most troublingly, it is obvious that the prosecution, through its in  
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1 camera proceedings, has improperly influenced the judge with its warped and fanciful  
2 view of Ms. Park and Dr. Uwaydah as murderers.

3 The Turley proffer transcript also contains numerous admissions by the  
4 prosecution that it had had secret in camera discussions with Judge Fidler about key  
5 issues and pieces of evidence and intended to prejudice the other defendants in  
6 disregard of the JDA. (*See, e.g.*, Turley Proffer at 7 (prosecution and Sepe warning  
7 Turley to ask his wife, who is also a defendant in this action, not to bring up his proffer  
8 with her attorney “because there’s a joint defense agreement,” thereby expressly  
9 showing the prosecution’s intent to circumvent that agreement), 10 (prosecution noting  
10 that judge had told Sepe - in secret – about Ms. Park’s acquittal on the murder charge  
11 as supposed “background” to this case), 30 (“[w]e [i.e. the prosecution] did alert, uh,  
12 Judge Fidler about the conversation about your kids – about Uwaydah wanting to  
13 know where they’re going to school . . . in case he needs to get in touch . . . with them  
14 or whatever”), 31 ([Prosecution] “I was talking to Judge Fidler on what we had there  
15 [re Dr. Uwaydah having contact information for Turley’s oldest son]”),

16 Any pretense to impartiality that Judge Fidler might have maintained at that point  
17 disintegrated thereafter. After allowing Gluck to continue the charade of leading the  
18 defense team through five days of evidentiary hearing on Defendants’ motion to  
19 dismiss, the Court inquired of Gluck how many more witnesses he had, to which  
20 Gluck responded that only head Deputy DA Nantroup remained. The Court then  
21 inexplicably continued the evidentiary hearing at least four times, allowing Nantroup  
22 to avoid to this day taking the witness stand and ultimately allowing him to retire from  
23 the DA’s office without the matter of his misconduct ever having been confronted,  
24 much less resolved. The Court finally dismissed Gluck due to the “conflict” only *after*  
25 Turley’s proffer was completed and *months* after it had determined that Gluck had a  
26 conflict which necessitated the appointment of new counsel for Turley, a move that  
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1 can only be interpreted as an intentional and improper effort on its part to interfere  
2 with the joint defense agreement and skew the case in the prosecution's favor.

3 In addition, reflecting the People's biasing of the judge, on December 4, 2018, the  
4 Court denied Defendant Kelly Park's motion for return of her passport, and cited ex  
5 parte in camera meetings with the People as the basis for the denial. (K. Park Mot.  
6 Pretrial Discovery at 4.) At the hearing, the Court indicated it would have granted her  
7 motion but for the information the judge received from the prosecution, which  
8 included the claim that Ms. Park was in communication with Dr. Uwaydah –  
9 communications that were in no way prohibited or improper. Later, the Court referred  
10 to other ex parte in camera factual representations by the People as the basis for  
11 denying a defense motion to modify a protective order. (*Ibid.*) On January 25, 2019,  
12 the Court denied a defense motion to allow Defendants to review the Turley proffer  
13 outside the presence of counsel, *again* citing ex parte in camera communications with  
14 the People as the basis for the denial, most likely referring to the People's  
15 misrepresentations to the Court about unsubstantiated "safety" concerns.

16 In March 2019, Defendant Park, joined by other Defendants, moved the Court to  
17 order the People to unseal the contents of those in camera representations and disclose  
18 their evidentiary basis, after informal requests to that end had been met with silence  
19 and stonewalling. (*Id.* at 5-6 & Exs. 1-3.) The motions were denied. At the same  
20 time, the Court *sua sponte* suspended the evidentiary hearing on the prosecution's  
21 misconduct and demanded an unprecedented evidentiary hearing into whether all  
22 defense counsel had a conflict of interest based on their employer, as required by  
23 statute, paying their legal bills.

24 At a hearing on June 28, 2019, the Court *again* indicated it had received secret  
25 information from the prosecution. (June 28, 2019 Hrg. Tr. at 3 ["the Court has some  
26 concerns from various things I have received, bits of information really about whether  
27 there is a conflict in this case concerning defense counsel"]; *id.* at 5 [indicating  
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1 information was in sealed transcripts that might be released “some time in the future”];  
2 *id.* at 6-7 [“I have lots of evidence [of a conflict of interest], and maybe you don’t have  
3 those papers yet”].) Prompted by this information received in camera from the  
4 prosecution or its witnesses, to which defense counsel was not privy, the Court  
5 demanded that the parties brief whether having defendants’ employer pay their legal  
6 bills amounted to a conflict of interest. (*See* June 28, 2019 Hrg. Tr. at 38.) The  
7 resulting supplemental briefing and hearing had the effect of yet again delaying the  
8 proceedings for months and saving the prosecution from having to answer to the  
9 serious allegations of misconduct that have been percolating for years now. Moreover,  
10 the supposed conflict is and was nothing more than a figment of Judge Fidler’s  
11 imagination with a dash of wishful thinking on the part of the prosecution.

12 And the People’s collusion with Judge Fidler continued. At the June 28, 2019  
13 hearing, the People indicated they had additional evidence they wished to present “in a  
14 petition or briefing” without first providing it to defense counsel for review.  
15 (6/28/2019 RT at 40.) The Court, incredibly, replied, “fine,” and “sure,” before the  
16 defense had even had a chance to weigh in on the matter. (*Ibid.*) Defense counsel  
17 nevertheless vigorously objected, citing the prosecution’s previous game-playing with  
18 evidence and noting, among other problems, that the defense had not been able to  
19 review the additional evidence, and that the issue of a purported conflict of interest had  
20 already been pending for months and the time for presenting new evidence had already  
21 concluded. (6/28/2019 RT at 40-44.) The Court overruled all objections. Again, the  
22 prosecution provided the Court with information in camera, failing to make any  
23 disclosure to the defense of this supposed evidence. Then, in their August 2, 2019  
24 briefing on the conflict issue, the People blindsided the defense by quoting from a  
25 proffer of Shannon Moore Devane, apparently the new evidence they had telegraphed  
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1 at the June 28, 2019 hearing, even though neither the proffer itself nor even its  
2 existence had been disclosed to the defense at that time<sup>2</sup> – suggesting that the People  
3 made yet another ex parte agreement with Judge Fidler as to when and whether to  
4 disclose it in full.

5 After many months of an unnecessary fishing expedition into an imaginary conflict  
6 on the part of defense counsel – the effect of which was to delay even further the  
7 defense’s presentation of evidence on the omnibus motion to dismiss, including most  
8 saliently having Nantroup take the witness stand – Judge Fidler finally agreed to what  
9 should have been obvious all along, namely that to the extent any conflict existed, it  
10 was waivable and Defendants had provided knowing and voluntary waivers or would  
11 do so if they had not already. (Aug. 16, 2019 Hrg. Tr. at 4, 9, 10, 14.)

12 But instead of finally continuing with the evidentiary hearing on Defendants’  
13 motion to dismiss, now that the imagined conflict issue had been put to rest, Judge  
14 Fidler set another hearing for October 11 without any particular guidance as to what  
15 subjects would be covered; in fact, he indicated he was “available for anything.” (Aug.  
16 16, 2019 Hrg. Tr. at 15.) The People then suggested they wanted to retroactively ratify  
17 their privilege invasion of Location 13 and other locations (as discussed in more detail  
18 in the omnibus motion to dismiss) based on the crime-fraud exception and to introduce  
19 evidence on that issue. (Aug. 16, 2019 Hrg. Tr. at 16.) Judge Fidler was not only  
20 amenable to the idea but helped the People with their case by advising them that “You  
21 might have Dr. [Paul] Turley . . . testify again.” (Aug. 16, 2019 Hrg. Tr. at 18.)  
22 Deputy District Attorney Mathai, apparently unclear on how Dr. Turley might be  
23 useful to the People’s case, asked the Court, “with regards to location?” to which the  
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26 <sup>2</sup> The defense has since been provided with that proffer, but that the People eventually turned over  
27 this evidence – after they had exhausted its usefulness to them in blindsiding the defense – does not  
28 change the analysis of judicial bias here.

1 Court replied, “Yes.” (*Ibid.*) Defense counsel objected that they needed at least two  
2 weeks’ notice with regard to any proposed witness testimony and three Defendants  
3 refused to waive time beyond October 11. (Aug. 16, 2019 Hrg. Tr. at 18-22.)

4 Counsel for Peter Nelson filed an ex parte motion on the morning of the October  
5 11, 2019 hearing seeking to get the proceedings back on track by finally calling  
6 Nantroup to the stand and precluding the People from further delaying the process with  
7 tangential inquiries into Dr. Turley’s, Marisa Nelson’s, or anyone else’s, as they relate  
8 to an attempted retroactive application of the crime-fraud exception. (Oct. 11, 2019  
9 Hrg. Tr. at 3-4.) Judge Fidler, in what can only be described as blatant prejudging of  
10 the case and egregious disregard for the presumption of innocence, stated, on the  
11 record, “This is a conspiracy from the get-go. The attorneys knew about it and the  
12 doctors knew about it,” and “I have some question [as to whether] there is any  
13 privilege in this case.” (Oct. 11, 2019 Hrg. Tr. at 4-5; see also *id.* at 6-7.) The People,  
14 with Judge Fidler’s full approval and indeed at his express suggestion, then proceeded  
15 to spend the rest of the hearing eliciting Dr. Turley’s testimony. (Oct. 11, 2019 Hrg.  
16 Tr. at 10-86.) The hearing was continued to December 2, 2019, because the People  
17 had not finished with Turley and, again, in the verbatim words of Judge Fidler,  
18 “anyone who has made a proffer and is now a witness for the People that has any  
19 relevant materials to offer” would need to testify before the Court could proceed on the  
20 motion to dismiss. (Oct. 11, 2019 Hrg. Tr. at 8.) Judge Fidler maintained this stance  
21 despite repeated and vociferous objections from defense counsel throughout the  
22 hearing and counsel for Defendants Arnold, Case, and Park reiterating that their clients  
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1 were not waiving time for the preliminary hearing. (See Oct. 11, 2019 Hrg. Tr. at 7-8,  
2 86-87.)<sup>3</sup>

3 On November 19, 2019, Defendants Arnold, Case, and Park duly moved to dismiss  
4 the complaints for failure to hold a timely preliminary hearing. On November 26,  
5 2019, the People filed an opposition, which consisted in relevant part of a single  
6 paragraph of “points and authorities” that cited no case law in support of their position.  
7 Moving Defendants filed a fulsome reply on December 2, 2019. At the continued  
8 hearing that same day, Judge Fidler, evidently unpersuaded by the People’s paragraph  
9 in opposition, indicated that he intended to deny the motion based, apparently, on his  
10 reading of *People v. Lind* (2014) 230 Cal.App.4th 709, 715-16, a case nowhere cited or  
11 even alluded to by the People anywhere in the record.<sup>4</sup>

12 Judge Fidler then allowed the examination of Turley, Marisa Nelson, and “anyone”  
13 with “any relevant materials to offer” to continue with no end in sight. By all  
14 appearances, the Court is setting up the proceedings to deny defendants’ motion for  
15 prosecutorial misconduct based on the judge’s prejudgment of the defendants’ guilt,  
16 based on prejudicial information being supplied by the People and without any  
17 semblance of due process, much less a jury trial. Defendant Nelson sees little chance  
18 of ever having his request granted to put Nantroup or any other witnesses on the stand,  
19 even though Nantroup’s testimony would relate largely to his lies to Judge Kennedy,  
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23 <sup>3</sup> Furthermore, even if the crime-fraud exception were applicable here, which it is not, it cannot be  
24 given blanket retroactive application; rather, each item of privileged information or communication  
25 must be analyzed individually and piece-by-piece to determine if the exception applies. (See, e.g.,  
26 *People v. Super. Ct. (Bauman & Rose)* (1995) 37 Cal.App.4th 1757, 1768-69 [noting that it cannot be  
assumed that all items seized by a search warrant were subject to the crime-fraud exception or even  
within the scope of the warrant at all].)

27 <sup>4</sup> Transcripts for the December 2, 2019 hearing were not available to counsel at the time of filing of  
this statement.  
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1 not privilege invasion. Instead, the People will be permitted to derail the proceedings  
2 and avoid ever having to answer for their misconduct.

3 Defense counsel have made every effort to secure fairness for their clients and  
4 have repeatedly raised their concerns with Judge Fidler. However, their complaints  
5 have fallen on deaf ears. Indeed, there have been so many ex parte in camera hearings  
6 that defense counsel cannot even count them – and has no way of knowing their true  
7 number because many, if not most, have likely been held without any notice to them.  
8 Judge Fidler continues to receive improper ex parte communications from the  
9 prosecution, and has in the last two months dropped any pretense of impartiality in  
10 favor of acting as a de facto prosecutor, providing suggestions and advice to the People  
11 on the record and apparently performing legal research for them when their briefing  
12 fails to make any compelling argument. His conduct has gone far beyond the point of  
13 unquestionably giving the appearance of bias against Defendants.

14 The People may not “avenge” their perceived shortcomings in a long-ago murder  
15 prosecution with misconduct, affirmative concealment, and deliberate obfuscation in  
16 this action, nor may they join the trial judge in that endeavor. Defendant Nelson  
17 wishes to have the motion to dismiss heard fully and fairly by an impartial adjudicator,  
18 as is his right under fundamental principles of justice and due process. Accordingly,  
19 Defendant Nelson submits this request to the Court to order the recusal of Judge Fidler.

### 20 21 **III. ARGUMENT**

#### 22 **A. Legal Standard**

23 Under California Code of Civil Procedure § 170.1, a judge may be disqualified  
24 “for any reason” when “[a] person aware of the facts might reasonably entertain a  
25 doubt that the judge would be able to be impartial” (§ 170.1(a)(6)(A)(iii)), because of  
26 “[b]ias or prejudice toward a lawyer in the proceeding (§ 170.1(a)(6)(B)), or if he has  
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1 “personal knowledge of disputed evidentiary facts concerning the proceeding” (§  
2 170.1(a)(1)(A)).

3 “A party has the right to an objective decision maker and to a decision maker  
4 who appears to be fair and impartial.” (*Wechsler v. Superior Court* (2014) 224  
5 Cal.App.4th 384, 390). “Impartiality” means the “absence of bias or prejudice in favor  
6 of, or against, particular parties or classes of parties, as well as maintenance of an open  
7 mind.” (*Haworth v. Superior Court* (2010) 50 Cal.4th 372, 389). Because even the  
8 appearance of a biased judge may “irreparably harm[]” “public confidence in the  
9 judiciary,” the party seeking a disqualification for cause need not show actual bias.  
10 (*Wechsler, supra*, 224 Cal.App.4th at p. 390; *see also People v. Freeman* (2010) 47  
11 Cal.4th 993, 1001). The applicable standard is therefore an objective one: “if a fully  
12 informed, reasonable member of the public would fairly entertain doubts that the judge  
13 is impartial, the judge should be disqualified.” (*Haworth, supra*, 50 Cal.4th at p. 389;  
14 *see also Flier v. Superior Court* (1994) 23 Cal.App.4th 165, 170). This statutory  
15 “reasonable person” standard is also more “expansive” and requires a lesser showing  
16 than that needed to establish a due process violation. (*Freeman, supra*, 47 Cal.4th at  
17 1005).

18 Ex parte communications between a judge and counsel are “ill advised,” and  
19 will be found prejudicial “if they relate to the merit of a disputed matter.” (*People v.*  
20 *Laue* (1982) 130 Cal.App.3d 1055, 1060–61). Comments by a judge that on their face  
21 “suggest a bias and a presumption of guilt” against a defendant violate due process and  
22 require disqualification. (*In re Martin* (1977) 71 Cal.App.3d 472, 481-82 [judge who  
23 stated at hearing “I feel I have been deceived by [the defendant] and that it was done  
24 deliberately,” among other similar comments, merited disqualification].) Further, a  
25 judge who makes angry, rude, or condescending remarks to a party or counsel is  
26 considered biased and subject to disqualification. (*Kloepfer v. Comm’n on Judicial*  
27 *Performance* (1989) 49 Cal.3d 826, 860-61 [removing from office judge who, among  
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1 other things, angrily griped to DA's office that it had "pull[ed] a fast one on him" and  
2 "made him look bad" and later called a defendant "fraudulent, a liar, and deceitful").)

3 **B. Analysis**

4 It appears that the People have repeatedly engaged in innumerable ex parte  
5 communications with the Court that have caused various aspects of the proceedings to  
6 shift in their favor. As set forth in Defendant Kelly Park's pending motions for  
7 discovery and for the unsealing of the transcripts, the defense is entitled to know the  
8 facts that were provided to the Court. Without such information, the defense has no  
9 way to challenge the facts as presented to the Court or to meaningfully address any  
10 prejudicial impact the People's communications may have had on the Court. This one-  
11 sided presentation of information to the Court is contrary to the very foundations of the  
12 adversary process and certainly gives the appearance of bias. The revelation that  
13 Judge Fidler secretly briefed Sepe on the "background" of the case that included a  
14 discussion of the murder case, apparently out of purported concern for Turley's  
15 "security" (Turley Proffer at 9-10), is shocking and should alone be a basis for  
16 disqualification. The fact that the Court briefed Sepe is, in of itself, highly  
17 inappropriate, and furthermore, the murder case and subsequent acquittal should *not*  
18 form a part of the background to this case. The prosecution's continued harping on it,  
19 both in the Turley proffer and to Judge Fidler in camera, is nothing more than an  
20 attempt to smear Ms. Park, Dr. Uwaydah, and anyone else associated with them and  
21 thereby to prejudice the outcome of what the prosecution surely knows is otherwise a  
22 feeble case charging unexciting financial misconduct.

23 Mr. Nelson also has grave concerns that, despite defense counsel's earlier  
24 objection, the prosecution may have obtained and provided to the Court privileged or  
25 confidential information, particularly in light of the Court's on-the-record  
26 pronouncement that it doubted any privilege existed in this case. Specifically, given  
27 the hearsay nature of Turley's proffer, it is very likely that some of the information he  
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1 provided to the prosecution was obtained through confidential communications among  
2 the defense team. Moreover, in light of the prosecution's blatant forum-shopping in  
3 this case when it dismissed and re-filed its charges so that it could remove Judge  
4 Kennedy from the case, acts that were led by Nantroup and for which he should be  
5 made to answer, the question of secret ex parte communications with Judge Fidler, that  
6 appear to have affected his actions in conducting these proceedings, have become all  
7 the more urgent because they invariably resulted in Nantroup being allowed to avoid  
8 taking the stand. It appears the People have a strong interest in avoiding having the  
9 evidentiary hearing proceed, and the defense has a right to know whether the People  
10 provided incorrect, improper, or inflammatory information in their communications  
11 with the Court. Moreover, Judge Fidler's actions in advising the People to call Turley,  
12 thereby *further* delaying any examination of Nantroup – on the forum-shopping issue  
13 or anything else – for almost four months, raise troubling concerns about his bias in  
14 favor of the prosecution on this issue.

15 Adding insult to injury, in the June 28, 2019, hearing transcript, Judge Fidler  
16 expressly states that “the Court has some concerns from various things I have received,  
17 bits of information really about whether there is a conflict in this case concerning  
18 defense counsel.” (June 28, 2019 Hrg. Tr. at 3.) Over defense counsel's objection that  
19 the Court's inquiry was prejudicial and without basis in the record, the Court replied,  
20 “actually, there are [reasons for the inquiry]. So as a matter of fact you are mistaken,”  
21 and went on to indicate that its reasons were contained in sealed transcripts that might  
22 be released “some time in the future,” at which point defense counsel would  
23 “understand.” (*Id.* at 5.) Judge Fidler would not let the issue go, remarking only  
24 minutes later that “I have lots of evidence [of a conflict of interest], and maybe you  
25 don't have those papers yet,” and “I can't have the information that I have, that has  
26 been indicated to me, and willfully go forward with this case knowing that something  
27 wrong may be here.” (*Id.* at 6-7.) Based on the remainder of the transcript, the  
28

1 information appears to have come from Dr. Turley’s conversations with the  
2 prosecution. The judge then demanded supplemental briefing on the issue of conflict  
3 of interest based on third-party payment of Defendants’ attorney’s fees. (*Id.* at 38.)  
4 Not only was that inquiry a baseless (as even Judge Fidler eventually admitted)  
5 intrusion into the attorney-client relationship based on speculative and unwarranted  
6 assumptions that each and every separately-represented Defendant has a relationship  
7 with counsel similar to Gluck’s relationship as described in Turley’s proffer, it also  
8 had the effect of delaying – again – the evidentiary hearing into prosecutorial  
9 misconduct that is now almost at the end of its second year.

10 The transcripts from August 16, 2019 to the present are even more troubling in  
11 that they show Judge Fidler going beyond “just” secret communications with the  
12 prosecution to effectively joining the prosecution team from the bench. He has offered  
13 the People explicit advice on how to present their case. (Aug. 16, 2019 Hrg. Tr. at 18.)  
14 He has for all intents and purposes admitted to prejudging the case in the People’s  
15 favor by stating that he believes there was “a conspiracy from the get-go” that would  
16 destroy any attorney-client privilege. (Oct. 11, 2019 Hrg. Tr. at 4-5.) And, in response  
17 to a scantily reasoned and unsupported opposition brief by the People, he sua sponte  
18 indicated that he may have found a justification for denying Defendants Arnold, Case,  
19 and Park’s motion to dismiss by citing a case and making an argument that the People  
20 nowhere relied upon or even vaguely gestured to.<sup>5</sup>

21 The foregoing conduct by Judge Fidler is sufficient for a reasonable person to  
22 find at the very least an appearance of bias – if not actual bias – in favor of the  
23 prosecution, and that the judge has been impermissibly conducting his own  
24

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25  
26 <sup>5</sup> Alternatively, and just as troublingly, the People may have made some argument based on *Lind* in a  
27 secret ex parte and in camera hearing with Judge Fidler. Either way, the appearance of bias cannot be  
28 ignored.

1 investigation outside the presence and without the knowledge of defense counsel. That  
2 is enough for disqualification under the “reasonable person” standard. (*See Wechsler,*  
3 *supra*, 224 Cal.App.4th at p. 390).

#### 4 IV. CONCLUSION

5 For the foregoing reasons, Defendant Nelson respectfully request that Judge Fidler  
6 be disqualified from hearing or conducting further proceedings in this case and that  
7 Judge Kennedy, or another unbiased adjudicator, be appointed in his stead as soon as  
8 possible.

9 Dated: December 4, 2019

LAW OFFICES OF WINSTON MCKESSON

10  
11 By: 

12 Winston K. McKesson  
13 Attorneys for Defendant  
14 Peter Nelson  
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**VERIFICATION**

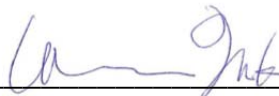
I, Winston Kevin McKesson declare:

1. I am an attorney admitted to practice before the courts of this state and I am counsel for Defendant Peter Nelson in this action. I make this verification as Mr. Nelson's counsel because I am familiar with the facts relevant to this statement of objections. The facts referred to in this statement are true based on my personal knowledge and from my review of the briefs, pleadings, and other documents filed in the superior court in this case and related cases.

2. I have read the foregoing statement and it is true of my own personal knowledge.

3. I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.

Signed this 4th day of December, 2019

  
\_\_\_\_\_  
Winston Kevin McKesson  
Counsel for Defendant Peter Nelson

1  
2 PROOF OF SERVICE

3 I am employed in the County of Los Angeles, State of California. I am over the age of 18  
4 and not a party to the within action. My business address is 6080 Center Dr., Suite 652, Los  
5 Angeles, CA 90045. On December 4, 2019 I served the within document(s) described as:

6 **VERIFIED STATEMENT OBJECTING TO HEARING AND TRIAL BEFORE THE HON.**  
7 **LARRY P. FIDLER**

8 [X] BY MAIL: I placed true copies of the document(s) listed above in a sealed envelope addressed  
9 as set forth below (except for any email addresses) for collection and mailing. I am "readily  
10 familiar" with this firm's practice of collection and processing of correspondence for mailing. It is  
11 deposited with the U.S. postal service on that same day in the ordinary course of business with  
12 postage thereon fully prepaid. I am aware that on motion of the party served, service by mail is  
13 presumed invalid if the postal cancellation date or postage meter date is more than one day after the  
14 date of deposit for mailing contained in this affidavit.

15 [X] BY EMAIL: I caused such document to be transmitted by email to the parties interested, at the  
16 respective email addresses set forth next to the name of each party listed below.

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**SEE ATTACHED SERVICE LIST**

I declare under penalty of perjury under the laws of the United States and the State of California  
that the above is true and correct. I declare that I am employed in the office of a member of the bar  
of this court at whose direction the service was made.

Executed on December 4, 2019, at Los Angeles, California.

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