

1 Farimah Brown, City Attorney, SBN 201227  
2 Lynne S. Bourgault, Deputy City Attorney, SBN 180416  
3 Jessica Mar, Deputy City Attorney, SBN 293394  
4 BERKELEY CITY ATTORNEY'S OFFICE  
5 2180 Milvia Street, Fourth Floor  
6 Berkeley, CA 94704  
7 Telephone: (510) 981-6998  
8 Facsimile: (510) 981-6960  
9 Email: LBourgault@cityofberkeley.info

10 Attorneys for Defendant CITY OF BERKELEY

11 UNITED STATES DISTRICT COURT  
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA

13 KIARA ROBLES,

14 Plaintiff,

15 v.

16 IN THE NAME OF HUMANITY, WE  
17 REFUSE TO ACCEPT A FASCIST  
18 AMERICA (a.k.a. ANTIFA), CITY OF  
19 BERKELEY, ET AL.,

20 Defendants.

No. 4:17-cv-04864 CW

**DEFENDANT CITY OF BERKELEY'S  
OPPOSITION TO MOTION FOR LEAVE  
TO FILE MOTION FOR  
RECONSIDERATION OF ORDER  
REVOKING PRO HAC VICE  
ADMISSION OF LARRY KLAYMAN;**

**JOINDER IN UNIVERSITY  
DEFENDANTS' OPPOSITION TO  
PLAINTIFF'S MOTION FOR  
RECONSIDERATION**

Date: N/A  
Time: N/A

**I. INTRODUCTION**

21 Plaintiff Kiara Robles ("plaintiff") seeks an order granting leave to file a motion for  
22 reconsideration of the Court's August 31, 2018 Order revoking the *pro hac vice* admission of her  
23 lawyer, Larry Klayman. The Court should deny plaintiffs' motion for all of the reasons below.  
24 On August 31, 2018, this Court issued an order granting the City's motion to revoke the *pro hac*  
25 *vice* admission of Mr. Klayman. ECF Doc. # 86. In its Order, the Court adopted its tentative ruling  
26 on the City's *pro hac vice* motion, entered on May 23, 2018. ECF Doc. # 49. On September 13,  
27 2018, plaintiff filed this motion requesting leave to file a motion for reconsideration of the Court's  
28

1 August 31, 2018 Order.

2 **II. ARGUMENT**

3 Plaintiff acknowledges that a party may seek reconsideration of an interlocutory court  
4 order only when the requirements of Local Rule 7-9(b) are met. Plaintiff asserts that there has  
5 been “a manifest failure by the Court to consider material facts or dispositive legal arguments  
6 presented before the entry of judgment.” ECF Doc. # 87 at 3:10-17. A court does not abuse its  
7 discretion in denying a motion for reconsideration when the moving party has failed to present  
8 any “arguments which the court has already considered and rejected.” *Fuller v. M.G. Jewelry*,  
9 950 F.2d 1437, 1442 (9<sup>th</sup> Cir. 1991).  
10

11 **A. The Court Did Not Fail to Consider the Plaintiff’s Argument That  
12 No Other Lawyer Would Represent Her**

13 Plaintiff asserts that the Court failed to consider sworn affidavits by plaintiff and her counsel  
14 Mr. Kolodzi (ECF Doc. # 71) in which they argue that plaintiff’s case will not be able to proceed  
15 without Mr. Klayman. ECF Doc. # 87:5:27-6:12. In fact, the Court did consider the issue raised  
16 by the affidavits of plaintiff and her local counsel, Mr. Kolodzi. At the July 17, 2018 hearing on  
17 the motion to revoke *pro hac vice* status, plaintiff’s counsel, Mr. Klayman, argued that “[t]here is  
18 no one else that will represent [plaintiff] except me in practice.” ECF Doc. # 87-1 at 7:20-24. In  
19 response, the Court stated, “Well, your local counsel is going to have to represent her if your pro  
20 hac vice status is revoked . . . [ ] If he isn’t able to do that, he’ll have to move to withdraw and  
21 she’ll have to find a new lawyer.” *Id* at 7:25-8:4. Mr. Klayman then argued extensively that  
22 plaintiff would have difficulty finding a new lawyer. (ECF Doc. #87-1 at 8:5-9:15). The Court  
23 rejected this argument in entering an Order that “Robles’ remaining counsel, Michael Kolodzi,  
24 shall continue to represent her.” ECF Doc. # 86 at 1:25-26. Thus, plaintiff’s argument that the  
25 Court “manifestly failed to consider” the affidavits of plaintiff and Mr. Kolodzi is without merit.  
26

27 ///

28

1                                   **B. The Court Considered and Rejected Mr. Klayman’s Argument That**  
2                                   **He Has Never Been Sanctioned**

3           Plaintiff claims the Court did not consider Mr. Klayman’s argument that he “has never been  
4 sanctioned by the District of Columbia Bar” (ECF Doc. # 87 at 6:20-22, emphasis in original).  
5 The Court’s Order expressly rejected this argument, stating, “even though the D.C. Bar’s  
6 recommendation is still on appeal, its findings that Klayman violated Rules of Professional  
7 Responsibility were still instructive.” ECF Doc. # 86 at 1:21-24.

8                                   **C. The Court Considered and Rejected Mr. Klayman’s Argument That**  
9                                   **the Dissenting Opinion in Bundy Is Controlling**

10           Plaintiff asserts that the Court did not consider the dissenting opinion in the case *In re*  
11 *Bundy*, 840 F.3d 1034, 1054 (9<sup>th</sup> Cir. 2016). ECF Doc. # 87 at 7:15-28. However, plaintiff’s own  
12 motion *admits* that the Court considered the dissenting opinion by Judge Gould, and even cites to  
13 the portion of the Court’s Order where it states it “found the reasoning of the majority opinion to  
14 be more persuasive.” *Id.* at 7:15-16; *see also* ECF Doc. # 86 at 1:17-21. Thus, the Court should  
15 reject plaintiff’s argument that there was a “manifest failure by the Court to consider” the  
16 dissenting Opinion in *In Re Bundy*.  
17

18                                   **D. The City Joins in the UC Defendants’ Opposition to Plaintiff’s**  
19                                   **Request to Disqualify Judge Wilken**

20           Defendants Regents of the University of California, Janet Napolitano, and Nicholas Dirks  
21 have filed an Opposition to Plaintiff’s Motion for Reconsideration, addressing the myriad reasons  
22 the Court should reject plaintiff’s motion to the extent it requests the Court reconsider plaintiff’s  
23 request for recusal and/or renewed motion to disqualify Judge Wilken. The City hereby joins in  
24 that opposition.

25  
26 ///

27 ///

28

1           **III.    CONCLUSION**

2           For all of the foregoing reasons, the Court should deny plaintiff's motion for leave to file  
3 a motion for reconsideration.

4  
5           Dated: September 27, 2018

Respectfully submitted:

6                                   BERKELEY CITY ATTORNEY'S OFFICE

7                                   By:                                   /s/                                    
8   LYNNE S. BOURGAULT  
9   DEPUTY CITY ATTORNEY  
  Attorneys for Defendant City of Berkeley

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28