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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

KIARA ROBLES,)	Case No. 17-cv-04864-CW
)	
Plaintiff,)	Oakland, California
)	Tuesday, July 17, 2018
vs.)	
)	
IN THE NAME OF HUMANITY,)	
WE REFUSE TO ACCEPT A)	
FASCIST AMERICA, et al.,)	
)	
Defendants.)	
_____)	

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE CLAUDIA WILKEN
UNITED STATES JUDGE

APPEARANCES:

For Plaintiff:	LARRY KLAYMAN, ESQ. Klayman Law Group, P.A. 7050 W. Palmetto Park Road 15-287 Boca Raton, Florida 33433 (561) 558-5536
For Defendant The Regents of the University of California, Berkeley, Janet Napolitano, and Nicholas B. Dirks:	BRYAN H. HECKENLIVELY, ESQ. Munger, Tolles and Olson LLP 560 Mission Street, 27th Floor San Francisco, California 94105-2907 (415) 512-4015
For Defendant City of Berkeley:	JESSICA ELIZABETH MAR, ESQ. Berkeley City Attorney's Office 2180 Milvia Street, 4th Floor Berkeley, California 94704 (510) 981-6998

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1 APPEARANCES: (Cont'd.)

2 Transcription Service: Peggy Schuerger
3 Ad Hoc Reporting
4 2220 Otay Lakes Road
5 Suite 502-85
6 Chula Vista, California 91915
7 (619) 236-9325
8
9
10
11
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1 like.

2 MR. KLAYMAN: Thank you, Your Honor. May it please the
3 Court, my background -- I've been a lawyer of going on 41 years.
4 On December 7th, 1977, I became a member of the Florida Bar. I
5 became a member of the D.C. Bar in 1982. I've been a member in
6 good standing continuously of each bar for all of that time
7 period.

8 THE COURT: Well, I think you were suspended recently
9 from some bar.

10 MR. KLAYMAN: That's what I want to clear up. I've not
11 been suspended. It's still in progress what's going on. And let
12 me, you know, get specific. I'm a former defense lawyer and
13 prosecutor of the Department of Justice. I'm the founder of
14 Judicial Watch and Freedom Watch, and I've been in private
15 practice.

16 Now, the motion that was brought by the City of Berkeley is
17 incorrect and it's false in two major respects, Your Honor, and
18 you relied upon them in issuing that order which revoked my pro
19 hac vice status, the tentative order.

20 Number one, the D.C. Board of Professional Responsibility
21 does not have any provision in it -- their finding, their
22 recommendation -- it's just a recommendation. The matter is still
23 up at the D.C. Court of Appeals. The way it works is you have a
24 Hearing Committee that makes a recommendation. It then goes to
25 the D.C. Board of Professional Responsibility that reviews what

1 the Hearing Committee did and recommended. And then that matter
2 can be taken up to the D.C. Court of Appeals. The matter's in
3 front of the D.C. Court of Appeals. I have not been disciplined
4 as of this time by the D.C. Court of Appeals.

5 But here's what's really important -- and this was the false
6 representation that was contained in the pleadings that Your Honor
7 relied upon. It -- it's that the Board of Professional
8 Responsibility, the recommendation, removed any allegation that I
9 had not been truthful with the Hearing Committee.

10 THE COURT: But that wasn't the only extant allegation.

11 MR. KLAYMAN: Well, that's -- as far as that's
12 concerned, that's incorrect -- as far as that aspect of it is
13 incorrect. And it's not a final decision. They led you to
14 believe that was a final decision. It's not. It's in front of
15 the D.C. Court of Appeals. So that was incorrect.

16 Secondly, with regard to the *Bundy* matter, the dissenting
17 opinion of Judge Gould found that I had not been in any way
18 untruthful with Judge Navarro, who was the judge who was handling
19 the *Bundy* matter in Las Vegas, that I answered all the questions
20 that I had to answer, that I had no further obligation other than
21 to answer the questions that were asked on the pro hac vice
22 application. So that was false as well.

23 And I did not lie and there's no finding that I've lied.

24 Now, I don't understand why -- because I put the Court on
25 notice of these errors in a pleading that I filed after your

1 tentative decision -- I don't understand why the City of Berkeley
2 to this day hasn't corrected false representations made to this
3 Court. I don't understand. They have an obligation as attorneys
4 to do that.

5 And I would ask Your Honor -- because when you gave me the
6 opportunity -- and I appreciate that -- to have this hearing, you
7 said that we would have a briefing schedule. Your Honor ordered
8 no further pleadings. I'd like to file a brief after this is over
9 to set forth exactly what I'm saying so you'll be able to see it.
10 You'll be able to see those determinations.

11 THE COURT: Well, you filed something.

12 MR. KLAYMAN: Excuse me?

13 THE COURT: I think you did file something.

14 MR. KLAYMAN: I filed a request for a hearing. That's
15 what I filed. And I pointed out that the representations that had
16 been made by the City of Berkeley were incorrect, were false. So
17 I would like that opportunity to do that.

18 And let me say this: I'm a strong advocate. I'm non-
19 partisan. Yes, I'm of a conservative background, but I've brought
20 cases with regard to a lot of different persons, entities, and
21 politicians, even the Bush Administration, for illegal wiretapping
22 and the NSA.

23 And they're trying to say that I'm here for a political
24 purpose. I'm not here for a political purpose. I have a client
25 who was attacked by ANTIFA, who was physically harmed and

1 emotionally harmed by ANTIFA, a very fine gay woman named Kiara
2 Robles, who was there simply to go to a speech.

3 THE COURT: We're not talking about the merits of the
4 case.

5 MR. KLAYMAN: Okay.

6 THE COURT: We're talking about the --

7 MR. KLAYMAN: Well, the merits kind of add into it
8 because, see, that's part of what they're trying to do, to
9 influence you in the things that are being said. They're saying,
10 Larry Klayman is just here for a political purpose. I'm not.

11 THE COURT: That isn't -- that wasn't the thrust of the
12 tentative ruling.

13 MR. KLAYMAN: With regard to another statement they made
14 about a late filing of five days, we mismarked it. It was an in
15 advertent error, when a response to a motion to dismiss would be
16 due. We discovered that two days after the fact. We asked Your
17 Honor for leave. There was no harm to anybody. There was no
18 prejudice.

19 They're kind of loading up this pleading, Your Honor, and
20 it's just simply not fair. Kiara Robles -- and this is why I did
21 mention the substance -- deserves and should be accorded the
22 client -- excuse me -- the lawyer that she'd like to have
23 represent her. There is no one else that will represent her
24 except me in practice.

25 THE COURT: Well, your local counsel is going to have to

1 represent her if your pro hac vice status is revoked.

2 MR. KLAYMAN: Well, there's nothing --

3 THE COURT: If he isn't able to do that, he'll have to
4 move to withdraw and she'll have to find a new lawyer.

5 MR. KLAYMAN: Well, here's -- here's the reality of it,
6 is that because ANTIFA's a violent organization, because they have
7 attacked not just my client but many other people, you probably
8 won't be able to find another lawyer to represent her because of
9 the risk factor involved. People don't want to do it. And that's
10 one of the things that I've done in my 40 years, is that I take
11 hard cases, including *Bundy*. That was a good example. People
12 weren't volunteering for that case.

13 So if Your Honor sustains the revocation of my pro hac vice
14 status, you will be effectively ending this case. Probably she'll
15 lose all of her rights and she will not be able to pursue that.

16 But what's important here -- I want you to understand this --
17 Judge Gould -- and I want you to be able to look at that decision
18 in the *Bundy* case. He's written several -- he said that I didn't
19 do anything wrong. He said -- there was a -- you know, there are
20 lawyers out there that are strong advocates that sometimes lock
21 horns with judges. Sometimes they disagree with judges.
22 Sometimes they take strong positions with judges. I've done that
23 in my 40-year career. And as I said, I've never been suspended.
24 I have not missed a practice -- a day of practice in law for all
25 that time period. There is no finding of discipline at D.C. And

1 with regard to Florida, that was because I was in financial
2 difficulty and it took me too long to pay it back because I was
3 almost bankrupt, but there was a finding of no dishonesty and I
4 simply agreed to settle that because -- to move on, and for a
5 fraction of what in fact the complainant was claiming, which her
6 own lawyer at the time said she didn't think -- he didn't think
7 that I owed.

8 But, yes, I'm a strong advocate. I have had differences with
9 judges. And a lot of lawyers have. Your Honor I'm sure remembers
10 the *O.J. Simpson* case where Marcia Clark and the others -- Johnnie
11 Cochran -- were sanctioned about six times each in this one case
12 because they took strong positions with Judge Ito.

13 Your Honor, all of this together, including the fact that I
14 didn't ever move to disqualify you -- that's not correct. I made
15 a suggestion of recusal, not because I said that you were biased,
16 but I thought because there would be the appearance of that. And
17 we live in very highly politically-charged times. Just the animus
18 shown in the City of Berkeley's brief tells you just how charged
19 the times are. It's a vicious brief and it's also factually
20 incorrect.

21 So, Your Honor, I ask you to reconsider your tentative ruling
22 which contained -- and this is the pleading I did file -- factual
23 errors, gross factual errors -- and I'm not blaming you, but you
24 were relying upon what you were being told at the time. You have
25 to look at those pleadings to see that they're false. And I would

1 like to file a post-hearing brief in some detail to do that, as
2 Your Honor said we could file a brief.

3 THE COURT: All right. Did you want to respond?

4 MR. KLAYMAN: One last point.

5 THE COURT: I'm sorry?

6 MR. KLAYMAN: I want to make one last point.

7 THE COURT: Oh, okay.

8 MR. KLAYMAN: And that is is that I will pledge to
9 always obey your orders, your rules. I'll be respectful to you as
10 I am today. And if I do anything wrong, Your Honor has the power
11 to correct that and sanction and do whatever needs to be done.
12 But Ms. Robles deserves the lawyer of her choice, her day in court
13 and, as a practical matter, it's very unlikely anybody else will
14 represent her in a case like this where there is the significant
15 risk.

16 Thank you.

17 THE COURT: Do either of you want to add anything?

18 MS. MAR: Your Honor, Jessica Mar for the City of
19 Berkeley. The only thing I would add is that the additional
20 documents that Plaintiff submitted in his request for a hearing
21 don't change anything that the City of Berkeley has submitted in
22 its papers.

23 The February 6, 2018 District of Columbia Court of Appeals
24 Board of Professional Responsibility document that Mr. Klayman
25 submitted also did have -- upheld the findings regarding improper

1 practice by the respondent and that bore directly on the judicial
2 process as well as the conflict of interest issues.

3 MR. KLAYMAN: What's important with that, Your Honor, if
4 I may respond, is this is not a final order. There is no
5 discipline that was imposed. It's simply a recommendation.

6 Secondly, what they wanted to stress was --

7 THE COURT: Meaning the case is still pending and we
8 haven't --

9 MR. KLAYMAN: Still pending.

10 THE COURT: -- the issue hasn't dropped yet?

11 MR. KLAYMAN: Regrettably in the District of Columbia,
12 it takes a long time. This matter's already ten years old. It's
13 -- California wouldn't let that happen. But it's still ten years
14 old. There's no final finding in that.

15 And Your Honor should have been advised of that by the City
16 of Berkeley, and also the fact that it was the board
17 recommendation that applied at that time, even though it's not
18 final, and they removed any finding that I had been untruthful
19 with the Hearing Committee. And that was the thrust of their
20 argument.

21 MS. MAR: Your Honor, the City of Berkeley would submit
22 that for the reasons set forth in the Court's tentative order,
23 that included failure to comply with Civil Local Rule 11-3 in
24 terms of a certificate of good standing issued no more than one
25 year prior to the date of application, as well as the fact that

1 Mr. Klayman did not even attempt to address the June 18th, 2017
2 report and recommendation of the Board, then after it had been
3 addressed by the Ninth Circuit in *Bundy* and made those same
4 misrepresentations in characterizing the current. Just because
5 the matter is ongoing and hasn't yet been resolved by the D.C.
6 Circuit, the City would submit that the reports and
7 recommendations have been provided and there have been a number of
8 instances -- I believe the Ninth Circuit Court of Appeals found 12
9 cases it identified in *Bundy* instances of failure to comply with
10 Local Rules, Courts' orders, and improper practice.

11 MR. KLAYMAN: Your Honor, let me add for that, I did
12 bring certificates of good standing.

13 THE COURT: May I ascertain whether counsel is finished
14 before --

15 MR. KLAYMAN: Oh, I'm sorry.

16 THE COURT: -- you go over to your reply?

17 MR. KLAYMAN: I'm sorry. I thought she was.

18 MS. MAR: Yes, Your Honor.

19 MR. KLAYMAN: Okay. I did bring certificates of good
20 standing within the last year for the Supreme Court of Florida and
21 for the Southern District of California, and the magistrate did
22 accept what I filed. But, yes, I have certificates if I may
23 approach the bench and give them to you?

24 THE COURT: You can hand them to the clerk.

25 MR. KLAYMAN: Okay.

1 THE COURT: If you have copies for counsel.

2 MR. KLAYMAN: I do. And I would just close by saying
3 that, as I said before, Judge Gould made reference of that in his
4 decision -- I'd like you to see it -- saying that I should have
5 had pro hac vice entry in the *Bundy* case.

6 THE COURT: Well, most of the Ninth Circuit's decisions
7 are available. I don't -- if he cited it, I'm sure I can see it.

8 MR. KLAYMAN: Okay. That's fine. That's fine.

9 THE COURT: What I can't remember is -- I think you're
10 saying that I first said you could file another brief and then I
11 said you couldn't file another brief?

12 MR. KLAYMAN: Correct. Correct.

13 THE COURT: I don't remember that or why --

14 MR. KLAYMAN: There's a minute order that says that no
15 further submissions will be accepted and you set the date for the
16 hearing. I'd like to have ten days to submit a brief.

17 THE COURT: Well, how long did you have in mind?

18 MR. KLAYMAN: The size of the brief?

19 THE COURT: Yeah. You have new things to say that you
20 haven't said in your prior brief or today?

21 MR. KLAYMAN: Well, I'd like to lay out with specificity
22 exactly what I'm talking about to show you that what was put in
23 the pleadings that you relied upon was untrue.

24 THE COURT: Well, and there's something that you haven't
25 yet told me or --

1 MR. KLAYMAN: Yes, because they're long -- they're long
2 decisions, so I'd like to lay it out for you in a way that would
3 make it easy for you to review.

4 THE COURT: Well --

5 MR. KLAYMAN: And since you did say we could have a
6 brief, I would like to be able to --

7 THE COURT: Do you remember this? I just don't know why
8 I would have said you could file one and then you couldn't file
9 one?

10 MR. HECKENLIVELY: Your Honor, I wasn't directly
11 involved in this, but my recollection is that there was a back-
12 and-forth about the hearing date between the City and Mr. Klayman,
13 and I thought -- I don't have the order in front of me, but I
14 thought the reference might have been in relation to this request.

15 MR. KLAYMAN: What the order said, Your Honor, --

16 THE COURT: Okay. If there's some document that hasn't
17 been submitted yet, you can submit it. And, by that, I mean
18 something from the D.C. Circuit or something from this Florida
19 court or whatever. I know I have one thing here that you did
20 submit. It's Exhibit 1 submitted on May 23rd, Docket Number 50-1,
21 and that seems to be something from District of Columbia. So you
22 don't need to file that one; we already have it.

23 THE CLERK: Your Honor, there was a clerk's notice
24 posted to the case on June 6 setting the matter for hearing, and
25 then within the clerk's notice it says, "No additional briefs may

1 be submitted."

2 THE COURT: And then was there some other place where it
3 said additional briefs could be submitted?

4 MR. KLAYMAN: Before that, when you issued the tentative
5 decision, Your Honor, you said, "Plaintiff should advise whether
6 he wants a hearing and then we will set a briefing schedule."

7 THE COURT: Hmm.

8 MR. KLAYMAN: I reviewed that this morning before I came
9 in.

10 THE COURT: Okay. Well, --

11 THE CLERK: And your order was posted on May 23rd.

12 THE COURT: Well, in any event, we have the District of
13 Columbia thing that you filed on May 23rd. If there's something
14 that's submitted after that, you can submit it. If there's
15 something new from Florida that you haven't submitted yet, you can
16 submit it, and you can submit five pages of argument telling me
17 what you think I don't know already.

18 MR. KLAYMAN: Thank you.

19 THE COURT: And you can do that in a week, and you can
20 file any absolutely necessary response three days after that and
21 I'll take it under submission.

22 But you should keep in mind that there was a lot more
23 addressed in --

24 MR. KLAYMAN: I understand that.

25 THE COURT: -- the ruling than simply the Florida matter

1 and the D.C. matter.

2 MR. KLAYMAN: No.

3 THE COURT: And even the Nevada matter.

4 MR. KLAYMAN: I understand that, but what I was trying
5 to tell you was is that in the course of 41 years of legal
6 practice, you do sometimes have issues with judges. You have the
7 right and the ability to write decisions; we don't as lawyers.
8 And sometimes we're wrong. Sometimes judges are wrong. And that
9 should not be held against me because I have been a member in good
10 standing continuously for going on 41 years.

11 THE COURT: All right. Thank you.

12 MR. KLAYMAN: Thank you.

13 (Proceedings adjourned at 4:12 p.m.)

14

15 I, Peggy Schuerger, certify that the foregoing is a
16 correct transcript from the official electronic sound recording
17 provided to me of the proceedings in the above-entitled matter.

18

19 /S/ Peggy Schuerger
Signature of Approved Transcriber

July 19, 2018
Date

20

Peggy Schuerger
Typed or Printed Name

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