

**FILED**

1 RICHARD I. FINE  
2 Prisoner ID # 1824367  
3 c/o Men's Central Jail  
4 441 Bauchet Street  
5 Los Angeles, CA 90012

2009 JUL -9 PM 3:02

CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES

BY \_\_\_\_\_

6 **UNITED STATES DISTRICT COURT**

7 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

10 RICHARD I. FINE,  
11 Petitioner,

12 vs.

14 SHERIFF OF LOS ANGELES COUNTY,  
15 Respondent.

Case No. CV09-1914 JFW (CW)

REQUEST UNDER FRCP RULES  
60(b)(2), (4) AND (6) TO RECUSE  
MAGISTRATE JUDGE WOehrLE FOR  
BIAS FOR FAILURE TO DISCLOSE  
THAT SHE WAS A CRIMINAL  
DEFENSE ATTORNEY PRIOR TO  
BECOMING A MAGISTRATE JUDGE,  
AND IS SUBJECT TO MALPRACTICE  
CLAIMS IF SHE RULES THAT IT IS A  
DENIAL OF DUE PROCESS FOR L.A.  
SUPERIOR COURT JUDGES TO TAKE  
PAYMENTS FROM L.A. COUNTY  
WHEN SHE DID NOT RAISE SUCH  
ISSUE ON BEHALF OF HER OWN  
CLIENTS WHEN THEY WERE  
PROSECUTED BY THE L.A. COUNTY  
DISTRICT ATTORNEY

25 Prior to becoming a Magistrate Judge, Carla Woehrle worked for the firm  
26 of Talcott, Lightfoot, Vandavelde, Woehrle, Sadowsky and Woehrle, a civil and  
27 criminal litigation firm. The firm defended cases in the LA Superior Court,  
28 brought by the LA County District Attorney. These cases were presided over by

1 LA Superior Court judges who were receiving illegal payments from LA County  
2 in addition to their State salary. (See *Sturgeon v. County of Los Angeles*, 167  
3 Cal.App.4<sup>th</sup> 630 (2008); rev. denied 12/23/08) The LA Superior Court judges  
4 have also received retroactive immunity from criminal prosecution, civil liability  
5 and disciplinary action for receiving such illegal payments from LA County.  
6 (See Senate Bill SBX2 11 enacted 2/20/09; Gov't Code § 68220-68222.)

7  
8 As a private attorney, Magistrate Judge Woehrle did not raise the issue of  
9 the denial of due process of a LA Superior Court judge who is receiving illegal  
10 money from LA County presiding over a case where LA County, through the  
11 LA County District Attorney, is a party.

12 In this Petition for Writ of Habeas Corpus, Petitioner contended that it  
13 was a violation of due process for LA Superior Court Judge Yaffe, who had  
14 received illegal payments from LA County, to preside over a case where LA  
15 County was a party, make an order in its favor and in favor of its co-applicant  
16 for an Environmental Impact Report (EIR) and then preside over a contempt  
17 proceeding to judge his own actions and enforce the order.

18  
19 Based upon her former practice and actions, it is clear that if Magistrate  
20 Judge Woehrle decides[ed] to grant the writ, she will open herself and her firm  
21 up to malpractice claims from clients for whom she did not raise the issue of  
22 denial of due process and transfer the case.

23 Knowing this, Magistrate Judge Woehrle should have recused herself  
24 immediately upon receiving the case.

25  
26 28 U.S.C. § 455(a) states:

27 “Any justice, judge or magistrate judge of the United States shall  
28 disqualify himself in any proceeding in which his impartiality might  
reasonably be questioned.”

1 The issue of the criteria for recusal and a denial of due process was  
2 discussed in the recent U.S. Supreme Court case of Caperton, et al. v. A.T.  
3 Massey Coal Co., Inc., et al, 566 U.S. \_\_\_ (2009), Slip Opinion pages 11-13.

4 The objective standard is set forth in ABA Annotated Model Code of  
5 Judicial Conduct Canon 2 (2004):

6  
7 “A judge shall avoid impropriety and the appearance of impropriety.”

8  
9 THE ABA Model Code’s test for appearance of impropriety is “whether  
10 the conduct would create in reasonable minds a perception that the judge’s  
11 ability to carry out judicial responsibilities with integrity, impartiality and  
12 competence is impaired.”

13 In Liteky v. United States, 510 U.S. 540, 558 (1994), Kennedy, J.,  
14 concurring in the judgment, stated:

15  
16 “[U]nder [28 U.S.C.] Section 455(a), a judge should be disqualified  
17 only if it appears that he or she harbors an aversion, hostility or  
18 disposition of a kind that a fair-minded person could not set aside  
when judging the dispute.”

19 Clearly, Magistrate Judge Woehrle falls within these criteria. Her  
20 aversion, disposition and hostility were shown at page 18, first paragraph and  
21 footnote 10 of her Report and Recommendation. Here, after she acknowledges  
22 that judges who have received illegal payments have immunity from prosecution  
23 for such payments, she argues that the same judge is not biased in a case where  
24 the county who made the illegal payment is a party. She then confuses the levels  
25 of government at footnote 10 to equate a county with a federal and state  
26 government.

1           Given the near-100% probability that she will receive a malpractice claim  
2 from a former client, if she decides or decided to grant the writ, Magistrate  
3 Judge Woehrle must be recused.

4           This becomes especially important as neither the Sheriff, nor the LA  
5 Superior Court nor Judge Yaffe opposed the grounds, facts or claims in the  
6 Petition. With no opposition and an “interest in the outcome of the case,”  
7 recusal is mandated.  
8

9           Further reasons exist for Magistrate Judge Woehrle’s recusal which she  
10 did not disclose. A former associate at the Talcott firm from 1985-1993 and the  
11 wife of the named partner, Sadowsky, Maria E. Stratton is a LA Superior Court  
12 judge. She was of “colleague” of Magistrate Judge Woehrle at the Talcott firm.  
13

14           Additionally, Magistrate Judge Woehrle is on the Loyola Law School  
15 Alumni Association Board of Directors. According to a law school  
16 announcement, 250 judges are Loyola Law School alumni. Given the purpose  
17 of an alumni association to raise money for the law school, Magistrate Judge  
18 Woehrle has a conflict between her position to raise money for the law school  
19 and ruling that judges cannot preside over cases where they have received illegal  
20 money from counties, particularly LA Superior Court judges receiving illegal  
21 money from LA County. She did not disclose how many of the 250 judges were  
22 LA Superior Court or other Superior Court judges and personal friends,  
23 colleagues or associates of either her or her family.

24           Knowing all of this information, Magistrate Judge Woehrle was under a  
25 duty to disclose such and recuse herself. She did neither and elected to conceal  
26 the information.  
27

28           She must be recused.

1 Dated this 9<sup>th</sup> day of July, 2009

Respectfully submitted,

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3 BY:



4 RICHARD I. FINE,  
5 In Pro Per  
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**PROOF OF SERVICE**

STATE OF CALIFORNIA,  
COUNTY OF LOS ANGELES

I am Greg McPhee. My business address is 2450 N. Lake Avenue, PMB 227, Altadena, CA 91001.

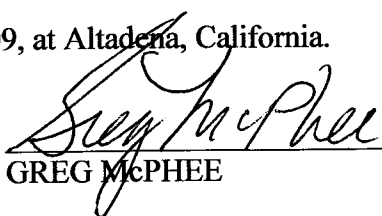
On July 9, 2009, I served the foregoing document described as **REQUEST UNDER FRCP RULES 60(b)(2), (4) AND (6) TO RECUSE MAGISTRATE JUDGE WOEHRLE FOR BIAS FOR FAILURE TO DISCLOSE THAT SHE WAS A CRIMINAL DEFENSE ATTORNEY PRIOR TO BECOMING A MAGISTRATE JUDGE, AND IS SUBJECT TO MALPRACTICE CLAIMS IF SHE RULES THAT IT IS A DENIAL OF DUE PROCESS FOR L.A. SUPERIOR COURT JUDGES TO TAKE PAYMENTS FROM L.A. COUNTY WHEN SHE DID NOT RAISE SUCH ISSUE ON BEHALF OF HER OWN CLIENTS WHEN THEY WERE PROSECUTED BY THE L.A. COUNTY DISTRICT ATTORNEY** on interested parties in this action by depositing a true copy thereof, which was enclosed in a sealed envelope, with postage fully prepaid, in the United States Mail, addressed as follows:

Aaron Mitchell Fontana  
Paul B. Beach  
LAWRENCE BEACH ALLEN & CHOI, PC  
100 West Broadway, Ste. 1200  
Glendale, CA 91210-1219

Kevin M. McCormick  
BENTON, ORR, DUVAL & BUCKINGHAM  
39 N. California Street  
P.O. Box 1178  
Ventura, CA 93002

I certify and declare, under penalty of perjury under the laws of the United States of America and the State of California, that the foregoing is true and correct.

Executed on this 9th day of July, 2009, at Altadena, California.

  
\_\_\_\_\_  
GREG MCPHEE