

Robert-John:Foti
General Delivery
Woodacre, [94973]
California

FILED
04 NOV 29 AM 11:25

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Joe Neufeld
General Delivery
Mission San Rafael Station [94902]
California

Ken Augustine
53 Mark Drive
San Rafael [94903]
California

Sovereign-State-Parties
In their own Stead¹

UNITED-STATES-DISTRICT-COURT
NORTHERN-DISTRICT OF CALIFORNIA

| | | |
|------------------------------------|---|--|
| Robert-John:Foti as to Counts 1-46 |) | CASE-NO: C 04-2567 PJH |
| Joe Neufeld as to counts 2,5-8, |) | |
| 10,11,14 |) | Layman's |
| Ken Augustine as to counts 5-7, |) | Formal Objection to Judge Hamilton's |
| 10,11,21,39,40,41-46 |) | denial to entertain a Rule 56(a) |
| |) | Motion |
| Plaintiffs ² , |) | |
| v. |) | |
| Officer McHugh and other unknown |) | |
| number of unnamed officers of the |) | |
| U.S. Marshall's Service and the |) | |
| Federal Protective Services |) | |
| U.S. Marshall's Service |) | Date: To be announced |
| Federal Protective Services |) | Time: To be announced |
| (John-Doe: 1-50) |) | Courtroom 3, 17 th Floor |
| Respondents. |) | Trial by Jury Demanded |
| |) | THREE JUDGE COURT CR 9(i) ³ |

¹ We are not attorneys. We should not be held to the same standard as an attorney and does request from this court an honest judgment. We trust any deficiencies and imperfections that may be contained herein will be liberally construed as the law favors form less than substance. This document is prepared without the assistance of counsel and is subject to whatever corrections are found necessary if and when the court so recommends.

² The court said in Pike v. Dickson, 9 Cir. 323 F.2d. 856, at 857: "Chief Judge Sobeloff in United States v. Glass, 4 Cir., 317 F.2d 200, 202 said as follows: "Where the laymen's papers clearly show what he is driving at, it is usually in the interest of justice and

Original
RA 01/11/12

To The court, all parties and their attorneys of record:
Please take notice of this formal objection.

I. Plaintiffs know of no authority for the court to "deny to entertain" a Motion for Summary Judgment.

1. Rule 56 has no such provision. A valid Motion for Summary Judgment would preclude a Motion to Dismiss. There is no restriction in Rule 56 that precludes the Motion for Summary Judgment because a Motion to Dismiss has been made. A Motion for Summary Judgment may be brought anytime after 20 days has passed from the filing of the complaint.

2. Plaintiffs did not inform the court that a Motion would not be brought.

3. Therefore Plaintiffs demand their Motion for Summary Judgment be entertained and opposed.

4. The court seems to forget that Plaintiffs are "master of their case."

II. This Judge ignores what Plaintiffs want.

5. Judge Hamilton ignored, or did not see, the emergency hearing request and then covered up for it.

6. Now this judge is ignoring the Plaintiffs request for a Three Judge Panel asked for because of the gravity of the constitutional violations in this case.

7. Therefore, Plaintiffs demand a Three Judge Panel because they believe this judge is biased against them and the gravity of the situation demands

may in the long run save time to temper the reading of the papers with a measure of tolerance.' This court has applied the same rule of construction of a layman's pleadings in *Thomas v. Teets*, 9 Cir. 205 F.2d 236,238. Note 1" Note 1: 'Thomas' application being drawn by an inexperienced layman is to be construed to give its allegations effect, though inartfully drawn. *Darr v. Burford*, 339 U.S. 200, 203, 70 S.Ct. 587, 94 L.Ed. 761; *Price v. Johnston*, 334 U.S. 266, 292, 68 S.Ct. 1049, 92 L.Ed. 1356" 370 F.2d. at 40 (1966)

³ The constitutional claim could be adjudicated only by a three-judge court, but the statutory claim was within the jurisdiction of a single district judge. *Hagens v Levine*, 415 U.S. 528, 543 (1974) See also: *Hohn v. United States* 524 U.S. 236 (1998); *Connolly v. Pension Benefit Guaranty Corporation* 475 U.S. 211 (1986) Summary Dismissal claim court overruled; *Walters v. National Association of Radiation Survivors* 473 U.S. 305 (1985); *Washington v. Confederated Bands and Tribes of the Yakima Indian Nation* 439 U.S. 463 (1979); *Tully v. Griffin, Inc.* 429 U.S. 68. (1976); *Whalen v. Roe* 423 U.S. 1313 (1975); *Atchison, Topeka & Santa Fe Railway Co. v. Wichita Board of Trade* 412 U.S. 800 (1973); *San Antonio Independent School District v. Rodriguez* 411 U.S. 1 (1973); *Shapiro v. Thompson* 394 U.S. 618 (1969); *Reynolds v. Sims* 377 U.S. 533 (1964); *Stratton v. St. Louis Southwestern Railway Co.* 284 U.S. 530 (1932)

Original
AA 04/11/23

it.

8. It is also worthy of note that Judge Hamilton has Plaintiffs working over the Thanksgiving Holiday without allowing more time to compensate for the holiday.

I, Robert-John:Foti, Joe Neufeld and Ken Augustine are the Complainants in the above-entitled action and competent men able to state the following: We have read the foregoing and know the contents thereof. The same is true of our own knowledge, except as to those matters that are therein alleged on information and belief, and as to those matters, we believe them to be true, and we will testify as to its veracity. The foregoing is true and correct and not misleading under penalty of bearing false witness.

Dated this _____ day of _____ in the year of our Lord two thousand and four and of the Independence of America the two hundred and twenty-ninth.

Respectively Presented

Robert-John:Foti
Ken Augustine 04/11/23
Joe Neufeld November 23, 2004

Original
FA
04/11/23

Case # C 04 2567 PJH
Declaration of Mailing

Ken Augustine
04/11/23

I, *Ken Augustine*, state I am over the age of eighteen and that on this date, Nov. *23rd*, 2004, I served the following:

Formal Objection to Judge Hamilton's denial to entertain a Rule 56(a) Motion document 041122AA

BY PLACING A TRUE COPY THEREOF INTO AN ENVELOPE BEARING PREPAID POSTAGE, BY VERIFYING THAT EACH SUCH ENVELOPE BORE ONE OF THE ADDRESSES OF EACH PARTY NAMED BELOW, BY SEALING AND BY DEPOSITING EACH SUCH ENVELOPE INTO THE UNITED STATES' MAIL AT: *SAN RAFAEL*, California *94903* republic, AND MAILING VIA CERTIFIED MATTER delivery contract. *Civil Center office*

John Ashcroft
U.S. Department of Justice
Office of Attorney General
Washington D.C. 20530
First Class mail

United States Attorney
450 Golden Gate Avenue
San Francisco, California 94102
First Class mail

THERE IS DELIVERY SERVICE OF THE UNITED STATES' MAIL AT EACH OF THE PLACES SO ADDRESSED, OR THERE IS REGULAR COMMUNICATIONS BY MAIL BETWEEN THE PLACE OF MAILING AND EACH OF THE PLACES SO ADDRESSED.

I DO HEREBY AVER THAT THE FOREGOING IS TRUE AND CORRECT UNDER THE PENALTY OF BEARING FALSE WITNESS UNDER THE LAWS OF THE UNITED STATES OF AMERICA.

EXECUTED ON Nov. *23*, 2004, AT *SAN RAFAEL*, California republic.

L.S. *Ken Augustine 04/11/23*
DECLARANT

CERTIFIED MAIL™

K. Augustine

538. MARK DR.

SAW RAFAEL, CA 94903



7004 1350 0003 7023 4506



0000



94102

SA

1st CL. MAIL
ENCLOSED

1st CL. MAIL
ENCLOSED

United States - District Court
Northern District of California
450 Golden Gate Avenue
San Francisco, California
94102

RETURN RECEIPT
REQUESTED