

1 THE SUPERIOR COURT OF CALIFORNIA  
2 COUNTY OF SANTA CLARA

(ENDORSED)

FILED

SEP 2 2005

KIRI TORRE  
Chief Executive Officer/Clerk  
Superior Court of CA County of Santa Clara  
BY *Kathleen Foster* DEPUTY  
KATHLEEN FOSTER

3  
4  
5 Jimmy Sutton, )

6 Plaintiff, )

7 Vs. )

8 Katrina Hartwell, et al., )

9 Defendants. )

Case No.: 403-SC-003174

Order Denying Request for Disqualification  
of Santa Clara County Superior Court and  
Striking Declaration of Disqualification

10  
11 Defendant Katrina Hartwell filed herein on August 30, 2005, a Declaration in Support  
12 of Disqualification of All Santa Clara County Superior Court Judges and Commissioners. The  
13 Declaration was presented to the undersigned as Presiding Judge of the Superior Court of  
14 California, County of Santa Clara. The Court will deny the disqualification and strike the  
15 Declaration of Disqualification.

16 The defendant bases her challenge upon Code of Civil Procedure (C.C.P.) section  
17 170.3. That section, along with all provisions in C.C.P. Title II, Chapter 3 (Disqualification of  
18 Judges), speaks to the disqualification of an individual judge. There are no provisions that  
19 authorize the disqualification of the entire Superior Court.

20  
21 Even if disqualification of the entire bench were permissible, it is not appropriate in this  
22 case. This is one of several small claims cases filed against defendant Hartwell. The suit was  
23 filed in 2003, and defendant Hartwell made her first appearance at a court hearing on June 30,  
24 2004. Judgment was entered against her on January 19, 2005, in the amount of \$2,500 plus  
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1 costs of suit. During the history of the case, defendant Hartwell exercised her right pursuant  
2 to C.C.P. section 170.6 to peremptorily disqualify a commissioner assigned to the case.

3 After numerous post-judgment proceedings, including an application for stay and  
4 petition for writ of mandate before the California Supreme Court and an application for stay  
5 and petition for writ of certiorari before the United States Supreme Court, defendant Hartwell  
6 files this declaration to disqualify the entire Superior Court bench.

7 C.C.P. section 170.4, subdivision (b), provides that "if a statement of disqualification is  
8 untimely filed or if on its face it discloses no legal grounds for disqualification, the trial judge  
9 against whom it is filed may order it stricken." It appears that defendant Hartwell's grounds  
10 for disqualification are dissatisfaction with the outcome of her case(s) and not the grounds  
11 listed in C.C.P. section 170.1.  
12

13 Furthermore, the challenge is not timely. A disqualification should be requested at the  
14 earliest practicable opportunity after discovery of the disqualifying facts. There is nothing  
15 alleged that would justify the delayed challenge in this case.

16 Therefore, the Court denies defendant Hartwell's Declaration for disqualification of  
17 Santa Clara County Superior Court, and the Court orders the Declaration of Disqualification  
18 stricken without prejudice to defendant Hartwell challenging individual judges.  
19

20 Dated: September 2, 2005



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A handwritten signature in black ink, appearing to read "Alden E. Danner".

Alden E. Danner  
Presiding Judge of the Superior Court