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6 IN PROPRIA PERSONA

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 FOR THE COUNTY OF LOS ANGELES

9 Case Number BD 296 320

10
11 IN RE MATTER OF:) APPLICATION TO DISQUALIFY JUDGE
12) ARNOLD GOLD FOR CAUSE;
13 Petitioner: LYNN REDGRAVE) DECLARATION OF JOHN CLARK;
14) MEMORANDUM OF POINTS AND
15) AUTHORITIES
16 and)
17) [CCP Section 170.1(2)]
18 Respondent: JOHN CLARK)
19)
20)
21)
22)

23 Trial date: March 23, 2001
24 Judge: Arnold H. Gold
25 Dept: 7

26 TO THE HONORABLE ARNOLD GOLD, JUDGE, PETITIONER LYNN
27 REDGRAVE, AND HER COUNSEL OF RECORD:

28 PLEASE TAKE NOTICE that pursuant to Code of Civil Procedure
Section 170.1 GROUNDS FOR DISQUALIFICATION (A) A JUDGE SHALL BE
DISQUALIFIED IF ANY ONE OR MORE OF THE FOLLOWING IS TRUE: Then,
inter alia, section (2) states "The judge served as a lawyer in

1 the proceeding, or in any other proceeding involving the same
2 issues he or she served as a lawyer for any party in the present
3 proceeding or gave advice to any party in the present proceeding
4 upon any matter involved in the action or proceeding." [emphasis
5 added] Respondent John Clark ("Respondent") applies to the
6 Superior Court to recuse and disqualify Judge Arnold Gold from
7 acting as a judicial officer in this instant case, and in
8 particular, from presiding over any further proceedings,
9 including the trial of this matter presently in progress.

10 This trial concerns itself with the method of disposal
11 of the jointly and separately owned property of the disputants.
12 The pair were married for 32 years during all of which time
13 Respondent enjoyed and served exclusively in a professional and
14 business relationship with Petitioner Lynn Redgrave
15 ("Petitioner"). Petitioner was granted a bifurcated divorce
16 (status only) on December 22, 2000, never having attempted the
17 reconciliation desired by Respondent.

18 The trial in the instant case commenced on Friday,
19 March 23, 2001, before the Honorable Judge Arnold H. Gold,
20 despite the protest of Respondent John Clark to Judge Gold on
21 February 28, 2001 that the Writ of Mandate Petitioner had filed
22 with the Appeals Court concerning his petition to recuse judge
23 Gold because of his incarceration by Judge Gold on November 1,
24 2000 was still under consideration. In the event, the Appeal
25 petition was denied the next day, and Judge Gold promptly
26 departed on vacation until his return on March 22.

27 Prior to his return, reports began to circulate that
28 Judge Gold was about to retire, and on March 23, at an ex parte

1 filed by Petitioner, Respondent protested on the record that the
2 trial should not begin if Judge Gold was about to retire.

3 The record will show that Judge Gold stated then from
4 the bench that he was only going to take certain cases and see
5 them through until the end, even if he was retired, and that
6 Petitioner's case, the instant case, was one of them.

7 Respondent was unhappy and confused with that answer,
8 but the trial commenced later on that day Friday, March 23,
9 2001.

10 The 4th day of trial is about to begin today, March 27,
11 2001.

12 Transcripts have been ordered, but will not be
13 available for several days.

14 **EVENTS OCCURRING ON MARCH 26 AT TRIAL**

15 On the morning of March 26, 2001, all of Judge Gold's
16 calendar on the wall outside Dept. 7 had been corrected to show
17 that almost all of his cases were being sent to another
18 department under a different judge, and marked clearly with a
19 red marker was the notation that Judge Gold was "RETIRED".

20 Petitioner appeared in person on this day, and seated
21 in front were members of the press, including a journalist from
22 the Los Angeles Times, who gave respondent her card upon
23 request, and stated her intention to continue in attendance at
24 trial.

25 The day commenced with the appearance of Steven
26 Mindell, Esq. on a Borsin Motion for fees. Judge Gold granted a
27 request of Mindell that Respondent prepare documents for Mindell
28 to be delivered to his office by Thursday, March 28th.

1 The day then continued with Judge Gold reversing an
2 outstanding order of his that Respondent's prior attorneys
3 should regurgitate a fee paid to them from the proceeds of the
4 litigant's corporation tax refund. This was done upon
5 application and motion from the attorney, Cy Schaeffer. Judge
6 Gold did this on the basis that he could not find the record he
7 was looking for which would show that proper notice had been
8 given to the attorney. Petitioner's attorney could not find
9 this notice either in her records. Judge Gold made this ruling
10 without prejudice to Respondent's preparing an objection by
11 notice of motion.

12 Respondent later raised the matter of the fact that he
13 had not seen any of Petitioner's financials or other documents
14 for year 2000 twice demanded by way of subpoena, and that he was
15 hampered by this lack of knowledge upon which to mount his case
16 which is complicated because it concerns the transfer of assets
17 by Petitioner, and Petitioner's Bankruptcy fraud and her Post
18 Nuptial agreement to cease the "community" aspect of hers and
19 her husband's relationship, written in her own handwriting,
20 which was denied the previous day by Judge Gold on the basis
21 that it was not provided among the discovery documents of
22 Respondent to Petitioner. Respondent plans to question
23 Petitioner further on this matter when it becomes his turn, for
24 he believes she has been concealing it.

25 Judge Gold advised Respondent to prepare more
26 paperwork and prepare a new application, even though he had
27 ruled that the subpoena was a legitimately served document.
28 Petitioner was supposed to appear at Respondent's office on

1 January 12, 2001 with her records. Respondent had refrained
2 from citing his ex-wife for contempt and jail time.

3 Petitioner asked Judge Gold if he would consider
4 ordering Petitioner to produce her records immediately for
5 review. Judge Gold denied this request, but said that
6 Respondent could prepare paperwork and file it.

7 And so, near the end of a long and tiring day of
8 testimony, Respondent had been in and out of the witness box,
9 being questioned by Petitioner's attorney, and at some point
10 asked Judge Gold on the record for clarification of his
11 calendar. Respondent was concerned that he would not be able to
12 mount his defense on a moment's notice because he was appearing
13 in pro per, and had no assistance in organizing his records for
14 a proper presentation of his case, and also for an examination
15 of Petitioner's Exhibits, none of which had been shown to
16 respondent prior to the commencement of the trial, and were
17 being produced piecemeal as needed during the trial.

18 Judge Gold thereupon, the record will show, stated
19 that it was his intention to finish the trial by Friday March 30
20 if he could, and asked Petitioner how many days she had asked
21 for. Petitioner responded that she had asked for ten days, but
22 by eliminating certain witnesses, she was able to whittle it
23 down.

24 Respondent protested that he had not called certain
25 witnesses, such as Petitioner's bankruptcy attorney and her
26 theatrical agent and her business manager on the basis that they
27 would be appearing as Petitioner's witnesses and he could
28 question them under cross-examination. Judge Gold stated that

1 Respondent could subpoena these witnesses if he wished, even
2 though he had previously restricted Respondent's witness list to
3 no more witnesses.

4 Judge Gold then stated that if he was not finished by
5 Friday March 30 because Petitioner had not finished her case in
6 chief, then Respondent would be permitted to start his case the
7 following week, on Wednesday, April 4, 2001.

8 Petitioner then stated that "As Mr. Clark knows", her
9 client would be leaving on Saturday March 31, and would not be
10 available afterwards.

11 Respondent thereupon objected that he had no knowledge
12 of this, and that in fact Petitioner has been silent on almost
13 all of his questions relating to the course of the trial.

14 Respondent asked Petitioner when Lynn Redgrave would
15 be returning, and Petitioner remained silent on this subject,
16 refusing to answer.

17 Respondent then appealed to the judge that he could
18 not begin his case-in-chief without the presence of Petitioner.

19 Judge Gold, without addressing Petitioner, then stated
20 that Respondent, when on cross examination of Petitioner this
21 week, could go outside the limits of the questioning under the
22 Evidence Code concerning cross and re-examination of witnesses,
23 and could ask any questions he liked **as though** he had begun his
24 case-in-chief.

25 After Judge Gold left the courtroom, Petitioner asked, in
26 open court in front of the court reporter, the bailiff and the
27 clerk, when Petitioner would be returning. The response was
28 that Petitioner would be working in London, and that Petitioner

1 should not try and interrupt her work opportunities.

2 Given this entirely unsatisfactory response, upon return
3 home, Respondent got on the internet, and found a website that
4 reveals future plans for West End London Theater. Attached
5 hereto as Exhibit "A" and incorporated herein by reference is a
6 true and correct copy of a download of "Whatsonstage.com - the
7 U.K's leading performance arts guide, page 1 of 1". This
8 document states that Lynn Redgrave would be starting rehearsals
9 for a play in London which would begin preview performances on
10 May 3. This means that she is under contract for what must be a
11 minimum of 6 months, and will be unable to return to Los Angeles
12 for any reason to do with the trial in that period of time. It
13 is within Respondent's scope of knowledge as a professional
14 theatre director for thirty years that the rehearsal time would
15 normally be 3 weeks, which means that Ms. Redgrave is leaving to
16 start immediate rehearsals.

17 Furthermore, the news report is dated February 8,
18 2001, and therefore she must have signed a contract before that
19 time, and it becomes apparent that Petitioner had reason for
20 Respondent to not see her papers, which would have revealed her
21 plans. It would appear that Petitioner must have given this
22 knowledge to Judge Gold, which would explain his willingness to
23 shorten the trial. Furthermore, one of the witnesses eliminated
24 was the Petitioner's theatrical agent, who would have revealed
25 these plans had she been called.

26 Petitioner is under the impression that Judge Gold
27 knew of these plans, and has been hurrying the procedures as a
28 convenience and a courtesy to Petitioner.

