
COMPLAINT ABOUT A CALIFORNIA JUDGE, COURT COMMISSIONER OR REFEREE

*Confidential under California Constitution
Article VI, Section 18, and Commission Rule 102*

For information about the Commission on Judicial Performance and instructions on filling out and submitting this form, please visit our website at <http://cjp.ca.gov>.

Today's date: September 16, 2021

Your name: Juan Pablo Lopez

Your telephone number: (650) 346-4324

Your address: 254 5th Avenue Redwood City, CA 9406

Your attorney's name: Maria Belyi & J. Tony Serra

Your attorney's telephone number: 415-986-5591

Name of judge: Joseph C. Scott, Judge & Katrina Bihl, Court Clerk -ADDENDUM to Original Complaint
OR

Name of court commissioner or referee:

(If your complaint involves a court commissioner or referee, you must first submit your complaint to the local court. If you have done so, please attach copies of your correspondence to and from that court.)

Court: Superior Court

County: San Mateo County

Name of case and case number: People v. Juan Pablo Lopez; NF433910

Date conduct occurred: August 27, 2021

Please specify what action or behavior of the judge, court commissioner or referee is the basis of your complaint. Provide relevant dates and the names of others present. (Use additional pages if necessary.)

SEE ATTACHED

Return to: Commission on Judicial Performance
455 Golden Gate Avenue, Suite 14400
San Francisco, California 94102

Telephone: (415) 557-1200

Fax: (415) 557-1266

PARTIES:

- 1) Joseph C. Scott, Superior Court Judge
- 2) Katrina Bihl, Court Clerk
- 3) Jocelyne Fakhouri, Court Reporter
- 4) Evelyn Segura-Chavez, WITNESS
- 5) Sarah L. Overton (CSB # 163810), Judge Scott's attorney

SUMMARY:

Court Clerk Katrina Bihl acts in concert with Superior Court Judge Joseph C. Scott and perjures herself, in a written declaration (ATTACHED), in support of him. Said declaration is presented by Judge Scott's own attorney, Sarah L. Overton (CSB # 163810), who either knew or should have known she was suborning perjury and in a clear conflict of interest -representing both Scott & Bihl.

Bihl's perjurious statements are revealed by an audio recording made by WITNESS Segura-Chavez, one which directly contradicts her (Bihl's) declaration and that of Judge Scott -in his declaration, Judge Scott, in support of his denials, said he had immediately left the courtroom with Court Reporter Jocelyne Fakhouri, yet she is heard, in the recording, to have remained [in the courtroom] and conversed with Bihl.

NARRATIVE:

On September 8, 2021, my attorneys, Maria Belyi & Tony Serra, filed responses to Judge Scott's and Court Clerk Katrina Bihl's declarations, respectively (ATTACHED). In Ms. Belyi's response, she revealed WITNESS Segura-Chavez had provided a recording to counsel, one which established Bihl and Judge Scott had perjured themselves, in their respective statements. Both Judge Scott and Bihl had, obviously, been unaware of the described recording and what it would represent/establish, as to both the truth of the matter and their individual credibility.

I submit, Judge Scott had contacted and questioned Court Clerk Katrina Bihl, as part of the "court staff" identified in his declaration; that his purpose had been to see if she would contradict

him, in what he was about to say in the document, and to intimidate and influence her, in her recollection of events; and that the perjurious statements contained in her declaration were the direct result of his influence. Judge Scott is the executive, Bihl his subordinate, and his questioning of her inappropriate/unethical.

Evelyn Segura-Chavez' audiotape (ATTACHED) clearly contradicts Court Clerk Katrina Bihl assertions that:

- (1) she had **-muted the public access line** [barring Segur-Chavez from overhearing Judge Scott's & Bihl's conversation]
- (2) **she and the bailiff were the only persons in the courtroom, following the hearing**
- (3) immediately after Judge Scott concluded the hearing, **he had left the courtroom with the court reporter** [Jocelyne Fakhouri].

Specifically, (1) Court Clerk Katrina Bihl had not muted the Court's Public Access Line, allowing WITNESS Evelyn Segura-Chavez to hear the respective interactions/conversations of Judge Scott, Bihl, Fakhouri, and the Bailiff; (2) ~~Bihl & the Bailiff~~ had not been the only persons present, in the courtroom, following the hearing, as Fakhouri can clearly be heard to have a conversation with Bill and was therefore present; and (3) Court Reporter Fakhouri had not left the courtroom with Judge Scott, immediately after he (Judge Scott) had concluded the hearing, in contradiction of not only Bihl, but Judge Scott as well -in his Declaration filed by Sarah L. Overton.

Respectfully submitted,

Juan Pablo Lopez

Court Clerk Katrina Bihl's Declaration

FILED
SAN MATEO COUNTY

AUG 27 2021

Clerk of the Superior Court
By: *[Signature]*
DEPUTY CLERK

1 SARAH L. OVERTON (CSB # 163810)
2 CUMMINGS, McCLOREY, DAVIS, ACHO & ASSOCIATES, P.C.
3 3801 University Avenue, Suite 560
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5 (951) 276-4420
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8 Attorneys for the Honorable Joseph C. Scott,
9 Judge of the Superior Court of California,
10 County of San Mateo

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA

12 COUNTY OF SAN MATEO

13 PEOPLE OF THE STATE OF CALIFORNIA,) Case No. NF433910
14)
15 Plaintiff,)
16 v.)
17 JUAN PABLO LOPEZ,)
18 Defendant.)

**DECLARATION OF KATRINA BIHL IN
RESPONSE TO DEFENDANT'S SECOND
SUPPLEMENT TO THE CHALLENGE
FOR CAUSE**

19 DECLARATION OF KATRINA BIHL

20 I, Katrina Bihl, declare:

21 1. I am the courtroom clerk for the Honorable Joseph C. Scott, Judge of the Superior
22 Court of California, County of San Mateo (Judge Scott). If called upon as a witness, I would
23 competently testify to the matters stated herein.

24 2. I am employed by the Superior Court of California, County of San Mateo
25 (Superior Court) and have been so employed since December 2016. I was initially hired by the
26 Superior Court as a deputy court clerk in the probate department. I have been a courtroom clerk
27 since November 2019. I have been Judge Scott's courtroom clerk for a little over a year.

1 3. As part of my duties as courtroom clerk, prior to the time that Judge Scott takes
2 the bench to hear the matters on calendar, I check in the attorneys and/or parties, and I call into
3 the public access line as the "host." The public access line permits the public to listen to the
4 proceedings through their telephone. In the morning session, after the proceedings conclude, I
5 mute the public access line without disconnecting it because additional matters may be sent from
6 the master-calendar court to be heard in our department. Once I determine that no additional
7 matters will be sent from the master calendar court, I disconnect the line.

8 4. On July 27, 2021, the instant action was on the morning calendar for a hearing to
9 continue the trial. This was the only matter on the court's calendar. When the attorneys arrived
10 for the hearing, I noted their appearance for my minutes. I also called into the public access line
11 at approximately 9:15 a.m. Judge Scott took the bench sometime around 9:30 a.m. The hearing
12 lasted approximately 5 minutes. Immediately after Judge Scott concluded the hearing, he left the
13 courtroom with the court reporter. Judge Scott did not have any conversation with me. After the
14 hearing, as was my usual practice, I muted the public access line and proceeded to work at my
15 desk in the courtroom while I waited to see if the master calendar court would send any matters
16 to this courtroom. The only other person in the courtroom was a bailiff, who was not the usual
17 bailiff for this courtroom. Judge Scott did not take the bench again that morning. After some
18 time, I left the courtroom to speak to Judge Scott in chambers. When I returned to the
19 courtroom, the bailiff had left. That indicated to me that the master calendar court was not
20 sending any cases to this courtroom that morning. At that point, I disconnected the public access
21 line.

22 5. I have read the defendant's second supplement to the challenge for cause which
23 sets forth the declaration of Evelyn Segura Chavez. In the declaration, Ms. Chavez contends that
24 she overheard a conversation between Judge Scott and me after the hearing. Specifically, Ms.
25 Chavez alleges that she heard the following:

26 "The Clerk said, "Hey, Judge Scott, what do you think of this?" Judge Scott
27 replied, "What are you talking about?" The Clerk said, "About the case." Judge
28 Scott then said, "Well, he got lucky and got away with the first one, but we will
 see about this one. His cousin works in San Francisco and is going to testify
 against him. Also, about the loans, how is he going to get around that?" The Clerk

1 then said "Well, they've been putting this off for a long time now." Both Judge
2 Scott and the Clerk laughed. Judge Scott then responded, "Well, we will see about
3 that." They both laughed again.

4 (Second Supplement, pp.1:26-2:3.)

5 6. I deny the claims made by Ms. Chavez. At no time did I make any of the
6 statements that Ms. Chavez alleges were made by me. At no time did I hear any of the
7 statements alleged to have been made by Judge Scott. As stated in the foregoing, Judge Scott
8 was not in the courtroom after the hearing, as he immediately left the courtroom after he ruled on
9 defendant's motion. I did not have any conversation with Judge Scott in the courtroom after the
10 hearing. Further, I have never heard Judge Scott make the types of statements alleged by Ms.
11 Chavez about any criminal defendant. At no time did I hear anyone make the statements alleged
12 by Ms. Chavez. Further, the bailiff and I were the only people in the courtroom. At no time did
13 I hear the bailiff make any of the statements alleged by Ms. Chavez.

14 I declare under penalty of perjury under the laws of the state of California that the
15 foregoing is true and correct.

16 Executed on August 27, 2021, at San Mateo County, California.

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Katrina Bihl, Declarant

California Judicial Branch News Service cjbns.org
Socioeconomic Justice Institute socioeconomicinstitute.com

**Maria Belyi's response
to
Court Clerk Katrina Bihl's Declaration**

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2 MARIA BELYI SBN 270019
3 3330 GEARY BLVD, 3RD FLOOR EAST
4 SAN FRANCISCO, CA 94118
5 TELEPHONE: (415)986-5591
6 FACSIMILE: (415)421-1331

7 ATTORNEYS FOR DEFENDANT
8 JUAN PABLO LOPEZ

9 SUPERIOR COURT OF CALIFORNIA

10 COUNTY OF SAN MATEO

11 PEOPLE OF THE STATE OF CALIFORNIA,

No. NF433910

12 Plaintiff,

DECLARATIONS AND ARGUMENT IN
RESPONSE TO KATRINA BIHL'S
DECLARATION (CCP 1701.1(a)(6)(A)(iii))

13 v.

14 JUAN PABLO LOPEZ,

**REQUEST FOR STAY OF
PROCEEDINGS PENDING DECISION
OF CHALLENGE FOR CAUSE**

15 Defendant.
16 _____/

17 **I. KATRINA BIHL'S DECLARAITON IS CONTRADICTED BY FACTS.**

18 Ms. Bihl's declaration avers that after the court proceedings, Judge Scott "immediately" left
19 the courtroom with the court reporter. See Declaration of Katrina Bihl, 2:12-13. Ms. Bihl then says
20 that she muted the line, as she does in typical practice and continued to work at her desk. Id. 2:13-
21 16.

22 However, Ms. Segura Chavez provided a recording to counsel¹. See Exhibit A: see also
23 Declaration by Counsel. That recording, which begins after the off-the-record colloquy between
24 Ms. Bihl and Judge Scott, contradicted the assertion by the Judge and Ms. Bihl that he and the court
25 reporter left immediately with him. The court reporter, Jocelyne Fakhouri, stayed behind a little bit
26 after the judge, and had a brief conversation with Ms. Bihl; that line was not muted. (See
27 _____
28 _____)

¹ The recording is in the process of being transcribed.

1 Declaration of Counsel, below; see also Ms. Segura Chavez's declaration, attached herein as
2 Exhibit A). That same recording showed that after the court reporter left, Ms. Bihl and the deputy
3 engaged in a conversation about various topics, such as Olympic gymnastics.

4 Ms. Bihl's declaration is also troublesome because it was prepared by the same attorney as
5 that representing Judge Scott. Judge Scott indicated in his papers that he had asked his staff about
6 any statements like the ones that Mr. Lopez alleged. Judge Scott is obviously Ms. Bihl's boss, and
7 her being represented by the same attorney as Judge Scott is a conflict of interest.


8 On the other hand, Ms. Segura Chavez's actions are consistent with someone who heard a
9 troublesome statement uttered by a judge presiding over her fiancé's matter. She has made
10 declarations under penalty of perjury describing what she heard and the actions that she took.

11 Ultimately, it is apparent that neither Judge Scott nor Ms. Bihl have a clear recollection of
12 the events of the morning of July 27, 2021, despite their assertions, under penalty of perjury, that
13 they do. A reasonable objective observer, knowing the facts and circumstances of this Judge Scott's
14 statement, its disclosure, and the nature of the denials of Judge Scott and Katrina Bihl, "would fairly
15 entertain doubts concerning the judge's impartiality." Briggs v. Superior Court (2001) 87
16 Cal.App.4th 312, 319.

17 Mr. Lopez respectfully requests that proceedings be stayed pending this motion to disqualify
18 Judge Scott. Mr. Lopez respectfully requests that Judge Scott be disqualified from these
19 proceedings.

21 Dated: September 8, 2021

Respectfully submitted,



J. TONY SERVA
MARIA BEL YI
Attorneys for Defendant
JUAN PABLO LOPEZ

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DECLARATION OF MARIA BELYI

1. I, MARIA BELYI, declare:
2. I am one of the attorneys for Mr. Juan Lopez. J. Tony Serra is lead counsel. We are currently in the process of transcribing a recording of the courtroom audio after the judge went out of the courtroom on July 27, 2021. I am informed and believe that Evelyn Segura Chavez recorded this after she heard Judge Scott and his clerk discuss Mr. Lopez's case, and heard Judge Scott state that Mr. Lopez "got lucky and got away" with his first case. Evelyn Segura Chavez's declaration as to this matter is attached as Exhibit A.
3. I have listened to the recording. The recording contradicts Judge Scott's assertion that the court reporter left with him immediately: the court reporter stays behind and has a short discussion with Ms. Bihl.
4. The recording contradicts Ms. Bihl's assertion that she had muted the line as soon as the court went off the record as, clearly, the recording shows that the conversations in the courtroom could be heard by the public call-in line.
5. The transcript will be provided as soon as it is ready. The recording can also be provided upon request.

I declare under penalty of perjury that the above is true and correct. That which is stated under information and belief, I believe to be true. Executed ~~on~~ September 8, 2021 at San Francisco, CA.

 _____

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6 FACSIMILE: (415)421-1331

7 ATTORNEYS FOR DEFENDANT
8 JUAN PABLO LOPEZ

9 SUPERIOR COURT OF CALIFORNIA

10 COUNTY OF SAN MATEO

11 PEOPLE OF THE STATE OF CALIFORNIA,

No. NF433910

12 Plaintiff,

13 SECOND DECLARATION OF EVELYN
14 SEGURA CHAVEZ ADDRESSING CLERK
15 KATRINA BIHL'S ASSERTIONS

16 v.

17 JUAN PABLO LOPEZ,

18 Defendant.

19 DECLARATION OF EVELYN SEGURA CHAVEZ

20 I, EVELYN SEGURA CHAVEZ, hereby declare:


- 21 1. I was informed by counsel for Mr. Lopez that Judge Scott's clerk stated, under penalty of
22 perjury, she had muted the public access line, after Judge Scott had left the bench, on July 27,
23 2021.
- 24 2. I know that to be not true. After Judge Scott had made the comments stating Juan Lopez
25 had previously gotten away with the first case, I stayed on the line, to hear if anything else
26 would be said. After I heard Judge Scott's comments, I proceeded to record the courtroom
27 audio, through the public call-in line, in anticipation that something else of that nature may be
28 said. The proceedings were no longer on the record. The recording refutes Ms. Bihl's
statement.
3. I have provided the recording to Mr. Lopez's attorney. In that recording, you can hear a
conversation between the clerk, Katrina Bihl, and the court reporter, Jocelyne Fakhouri -a

1 person Judge Scott contends had left the courtroom and was with him. This includes an
2 exchange where Ms. Bihl and Ms. Fakhouri are discussing sending and ordering items to family
3 in Lebanon.

4 4. Afterwards, they discuss a transcript and it sounds as though Ms. Fakhouri leaves the
5 courtroom. After Ms. Fakhouri leaves, Ms. Bihl is heard discussing the Olympics, her place of
6 residence, and other topics with the bailiff.

7 I declare the above to be true under penalty of perjury. Executed on this 7th of September
8 2021 in Redwood City, CA.

9 Respectfully submitted,

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11 EVELYN SEGURA CHAVEZ
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1 **PROOF OF SERVICE**

2
3 The undersigned declares:

4 I am a citizen of the United States. My business address 3330 Geary Blvd., Third Floor
5 East, San Francisco, CA 94118. I am over the age of eighteen years and not a party to the within
6 action.

7 On the date below, I caused a true copy of the within:

8 DECLARATIONS AND ARGUMENT IN RESPONSE TO KATRINA BIHL'S DECLARATION
9 (CCP 1701.1(a)(6)(A)(iii))

10 to be served on the following parties in the following manner:

11 San Mateo County District Attorney's Office
12 ATTN: Kimberly Perrotti
13 Email: KPerrotti@smcgov.org

14 *Via Email*

15 Sarah Overton
16 Cummings, McClorey, Davis, Acho & Associates
17 SOverton@cmda-law.com

18 *Via Email*

19 I declare under penalty of perjury that the foregoing is true and correct, and that this
20 declaration is executed on September 8, 2021, at San Francisco, California.

21
22
23 
24 Maria Belyi

**Tony Serra's response
to
Judge Scott's Declaration**

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7 ATTORNEYS FOR DEFENDANT
8 JUAN PABLO LOPEZ

9 SUPERIOR COURT OF CALIFORNIA

10 COUNTY OF SAN MATEO

11 PEOPLE OF THE STATE OF CALIFORNIA, No. NF433910

12 Plaintiff,

13 v.

14 JUAN PABLO LOPEZ,

15 Defendant.

16 NOTICE AND CHALLENGE FOR CAUSE;
17 DECLARATION OF J. TONY SERRA IN
18 SUPPORT OF DISQUALIFICATION FOR
19 CAUSE OF THE HONORABLE JUDGE
20 SCOTT (Cal. Code Civ. Pro
21 170.1(a)(6)(A)(iii))

22 Request of Stay of Proceedings

23 DECLARATION OF COUNSEL

24 I, J. TONY SERRA, hereby declare:

- 25 1. I am an attorney licensed to practice in the State of California, and I am the lead attorney
26 representing Mr. Lopez.
- 27 2. I realize that Judge Scott now knows that I know he has perjured himself by not admitting to
28 uttering the statement as alleged in Mr. Lopez motion for disqualification for cause. (See
Verified Answer of Judge Scott, filed August 20, 2021) That statement, averred by Evelyn
Segura Chavez and signed under penalty of perjury, is self-authenticating and is true.
- a. Judge Scott, knowing that I feel this way about him, will not be fair to Mr. Lopez at
trial.
3. Further, Judge Scott has sought to influence his staff, including his clerk, by asking them
about the statement and insinuating that they should say that he did not make it to go along with
his position on the matter.

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4. For the above two reasons, it is further believed that Mr. Lopez will not be able to get a fair trial in front of Judge Scott.

I declare under penalty of perjury, based on my information and belief, that the above is true and correct. Executed in San Francisco, California, on this September 1, 2021.



J. TONY SERRA

Verification

J. Tony Serra declares as follows:

I am an attorney licensed to practice in all courts of California and I am the lead attorney in this matter. In that capacity, I make this verification.

I have read the foregoing declaration, and I know the contents to be true based upon personal knowledge.

I declare under penalty of perjury that the above is true and correct and that this verification was executed on September 1, 2021, in San Francisco, California.



J. TONY SERRA

1 **PROOF OF SERVICE**

2
3 The undersigned declares:

4 I am a citizen of the United States. My business address is 3330 Geary Blvd., Third
5 Floor East, San Francisco, CA 94118. I am over the age of eighteen years and not a party to the
6 within action.

7 On the date below, I caused a true copy of the:

8 J. TONY SERRA'S NOTICE OF AND CHALLENGE FOR CAUSE; DECLARATION AND
9 VERIFICATION—CHALLENGE FOR CAUSE (170.1(6)(A)(3))

10 to be served on the following parties in the following manner:

11 San Mateo County District Attorney's Office Sarah Overton
12 ATTN: Kimberly Perrotti Cummings, McClorey, Davis, Acho & Associates
KPerrotti@smcgov.org SOverton@cmda-law.com

13 *Via Email*

Via Email

14
15 I declare under penalty of perjury that the foregoing is true and correct, and that this declaration is
16 executed on September 8, 2021 at San Francisco, California.

17 
18 _____
19 Maria Belyi