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ELECTRONICALLY FILED
12/30/2021 2:20 PM
Kern County Superior Court
By Gracie Goodson, Deputy

7 Attorneys for Defendants/Cross-Defendants
8 BAKERHOSTETLER LLP AND BRUCE
9 GREENE, ESQ.

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF KERN**

12 TULARE LOCAL HEALTHCARE DISTRICT,
13 dba Tulare Regional Medical Center, a Public
14 Agency,

15 Plaintiff,

16 v.

17 BRUCE R. GREENE; BAKER & HOSTETLER,
18 LLP, a limited liability partnership; PARMOD
19 KUMAR, M.D.; LINDA WILBOURN;
20 RICHARD TORREZ; and Does 1 through 50,
21 inclusive,

22 Defendants.

23 _____

24 RICHARD TORREZ,

25 Cross-Complainant,

26 v.

27 BRUCE R. GREENE, BAKER & HOSTETLER,
28 LLP, and Roes 1 through 20, inclusive,

Cross-Defendants.

Case No.: BCV-19-103514

**DEFENDANT BAKERHOSTETLER LLP
AND BRUCE GREENE, ESQ.'S NOTICE
OF MOTION AND MOTION TO
DISQUALIFY MICHAEL LAMPE AS
COUNSEL FOR PLAINTIFF TULARE
LOCAL HEALTHCARE DISTRICT**

Date: February 2, 2022
Time: 8:30 a.m.
Dept.: 17

Complaint Filed: April 24, 2019
Trial Date: Not Set

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 NOTICE IS HEREBY GIVEN that on the above date, time and place, the motion of
3 Defendants/Cross-Defendants BAKERHOSTETLER LLP and BRUCE GREENE to disqualify Michael
4 Lampe as counsel for Plaintiff Tulare Local Healthcare District will be heard in Department 17 of the
5 above-entitled Court. Said motion is brought pursuant to the advocate-witness rule. (California Rule of
6 Professional Conduct Rule 3.7.) That rule is founded on the bedrock principle of the American justice
7 system “that juries are to ground their decisions on the facts of a case and not on the integrity or
8 credibility of the advocates.” (*Kennedy v. Eldridge* (2011) 201 Cal.App.4th 1197, 1208 quoting *United*
9 *States v. Prantil* (9th Cir. 1985) 764 F.2d 548, 553.) The roles of advocate and witness are inherently
10 incompatible; an advocate serves to advance a position to his client’s benefit while a witness is obligated
11 to objectively state facts. (*Kennedy* at p. 1209.) Allowing a single individual to simultaneously serve
12 both roles collapses the distinction between advocacy and evidence, inviting confusion into the judicial
13 process and jurors’ minds. (*Id.*) This confusion prejudices the opposing party and calls into question *the*
14 *impartiality of the judicial process itself.* (*Id.*) “The very fact of a lawyer taking on both roles will affect
15 the way in which a jury evaluates the lawyer’s testimony, the lawyer’s advocacy, and the fairness of the
16 proceedings themselves.” (*Id.*) Lampe’s continued representation of the District cannot help but confuse
17 evidence and argument which will impact the jury’s evaluation of the case, prejudice Greene, and call
18 into question the fairness of the proceeding itself.

19 This confusion will necessarily occur because Lampe’s personal knowledge of the facts
20 underlying this case will be indistinguishable from his role as an advocate for the District. Lampe’s legal
21 and political attacks directed toward Greene lie at the heart of this case. His involvement is so central,
22 that not only is he a key witness to over \$2 million of damages claimed by the District, *he is a proximate*
23 *cause of those damages.*

24 While Lampe’s continued representation will prejudice Greene, on the other side of the scales,
25 the District will suffer little prejudice from retaining new counsel. The case has been stayed, there are
26 no pending deadlines, and Lampe has conducted little work on the case to date. While Greene has taken
27 some depositions, the vast majority of activity to date has been on document production which Lampe
28 has delegated to the District’s general counsel, McCormick Barstow. As such, there is ample time for

1 replacement counsel to get up to speed. Additionally, the District will not suffer any lost attorneys' fees
2 as Lampe worked on a pure contingency basis and has yet to even send a bill for costs to the District.


3 Given the manifest prejudice to Greene caused by Lampe's continued representation, and the
4 little cost incurred by the District in retaining new counsel, Greene respectfully requests the court
5 disqualify Lampe as counsel for the District for all trial and pre-trial matters on a going forward basis.

6 This motion is further based on this Notice, the attached Memorandum of Points and Authorities,
7 the Compendium of Evidence and exhibits attached thereto, the Declaration of Geoffrey T. Macbride,
8 the Request for Judicial Notice and on such other oral and documentary evidence as may be presented
9 at the hearing of this matter.

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DATED: December 29, 2021

MURPHY, PEARSON, BRADLEY & FEENEY

By 
Harlan B. Watkins
Attorneys for Defendants/Cross-Defendants
BAKERHOSTETLER LLP AND BRUCE GREENE,
ESQ.

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1 **CERTIFICATE OF SERVICE**

2 I, Alice Kay, declare:

3 I am a citizen of the United States, am over the age of eighteen years, and am not a party to or
4 interested in the within entitled cause. My business address is 580 California Street, Suite 1100, San
5 Francisco, California 94104.

6 On December 30, 2021, I served the following document(s) on the parties in the within action:

7 **DEFENDANT BAKERHOSTETLER LLP AND BRUCE GREENE, ESQ.'S NOTICE OF**
8 **MOTION AND MOTION TO DISQUALIFY MICHAEL LAMPE AS COUNSEL FOR**
9 **PLAINTIFF TULARE LOCAL HEALTHCARE DISTRICT**

	VIA MAIL: I am familiar with the business practice for collection and processing of mail. The above-described document(s) will be enclosed in a sealed envelope, with first class postage thereon fully prepaid, and deposited with the United States Postal Service at San Francisco, California on this date, addressed as listed below.
XX	VIA E-MAIL: I attached the above-described document(s) to an e-mail message, and invoked the send command at approximately _____ AM/PM to transmit the e-mail message to the person(s) at the e-mail address(es) listed below. My email address is NDavidson@MPBF.com/
	VIA HAND: The above-described document(s) will be placed in a sealed envelope which will be hand-delivered on this same date by _____, addressed as listed below.

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18 Law Office of Michael J. Lampe
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21 Visalia, California 93291
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Attorney For Plaintiff
TULARE LOCAL HEALTH CARE
DISTRICT

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RICHARD TORREZ

Attorney For Defendant
PARMOD KUMAR

Attorney For Defendant
BRUCE GREENE

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I declare under penalty of perjury under the laws of the State of California that the foregoing is a true and correct statement and that this Certificate was executed on December 30, 2021.

By 
Alice Kay